

MONTANA DEPARTMENT OF COMMERCE HOUSING ASSISTANCE BUREAU Section 8 Program

ADMINISTRATIVE MANUAL

(combining HUD required Administrative Plan and MDOC Administrative Policies Manual)

Important Note: Rather than publishing and maintaining 2 separate documents, one for HUD Administrative Plan, and one for MDOC policies, both are included in this administrative manual. Subjects required by HUD for the MDOC Admin Plan are shown in regular text, with section titles shaded. *Other policies not required to be in the admin plan, which are necessary for operation of the HUD programs, will be shown in italicized text.*

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I - MDOC

I-1. ORGANIZATION.

The Housing Assistance Bureau, Housing Division, Montana Department of Commerce (MDOC) is the Montana State Public Housing Agency (PHA), administering the HUD Section 8 Housing Assistance Program (Moderate Rehabilitation, and tenant based Housing Choice Vouchers Program) to provide affordable, decent, safe, and sanitary housing to low income families residing or wishing to reside in Montana.

Housing programs are service related business enterprises. MDOC will provide the best possible services to participants and landlords within the parameters of federal law and regulation. All operations will be conducted using the best possible business practices.

I-2. PURPOSE.

The Administrative Plan addresses major discretionary program functions in the Section 8 Programs. MDOC and it's field agencies must operate the HUD programs it administers in accordance federal regulations found in the Code of Federal Regulations 24 CFR parts 5, 8, 792, 882, 883, 888, 903, 982, 984, and 985, HUD Notices, HUD Guidebooks and Handbooks, HUD letters, the MDOC Administrative Plan and MDOC policy letters. . MDOC establishes operating procedures (policies) to direct and assist Contract Field Agents performing specific functions. This administration manual combines the Administrative Plan and policies within one document and is available for public review as part of the PHA Annual Plan.

I-3. JURISDICTIONAL AREA.

The jurisdictional area of MDOC includes the entire state of Montana. MDOC divides Montana into twelve sub-state planning areas, however units are allocated on a jurisdictional (statewide) basis. MDOC contracts with Local Field Agents to provide some MDOC functions in the program. Each Local Field Agent contracts for local administration of Vouchers and Mod Rehab units from the MDOC allocation. (A list of field agents is included at the end of this section.)

Units are not ported out of MDOC control for use anywhere within the state of Montana. When a Voucher ported from one field agent area to another becomes vacant, the ported Voucher will be returned to the original local field agent for reissuing.

I-4. MDOC STAFF.

Fiscal Officer, (PHA Executive Director/ Housing Assistance Bureau Chief), State Pay Plan 020, Pay band 7 . Responsible for overall program operation of Housing Choice Vouchers, Moderate Rehabilitation, HUD HOME Investment Partnerships, and Section 8 Project Based Montana Contract Administration Programs. Also responsible for consultative review of State Consolidated Plan for affected Programs.

Accountant (State Pay Plan 020, Pay band 6). ½ position. Unit accounting, budget, requisitions, and collections.

Information Systems Technician, (IT Manager), State Pay Plan 020, Pay band 5. Responsible for computer operation and automated report preparation.

Program Specialist, (Program Manager), State Pay Plan 020, Pay band 6. Responsible for assisting Bureau Chief in relation to ~~rehabilitation~~ programs, FSS and Homeownership Sub-programs, planning, coordinating program operations and supervising ~~56~~ program specialists and tow Administrative Support positions.

Program Specialist, (Contract Manager), State Pay Plan 020, Pay band 5. 5 positions. Responsible for program operation of subsidies, and coordination of services with field agents, and Annual HQS inspections.

Program Specialist, (~~FSS/Homeownership Coordingator~~Contract Manager), State Pay Plan 020, Pay band 5. Currently vacant~~Responsible for program operation of subsidies, and coordination of services with field agents, and Annual HQS inspections. Also responsible for supervision of Administrative Support positions, correspondence in program and administrative file system.~~

Administrative Support, (Wait List Technician), State Pay Plan 020, Pay band3. Responsible for waiting list.

Administrative Support State Pay Plan 020, Pay band2. 2 positions. Filing clerk and receptionist support for Bureau.

Account Receivable, ½ position currently vacant

I-5. AGENT REQUIREMENTS.

MDOC requires local field agencies to operate the Section 8 Program in accordance with their MDOC contract, HUD regulations (CFRs and Federal Registers), HUD Notices, HUD Memos, this MDOC Administrative Plan, MDOC Policy Memos, and guidance provided by MDOC program personnel. MDOC provides local field agents with copies of relevant CFRs and Federal Registers (~~gray~~), HUD Notices and HUD Memos per request and also available at the MDOC website at <http://housing.mt.gov>. (~~buff~~). As changes are made to this Administrative Plan (tan), they are distributed to field agents to replace outdated sections. When MDOC adopts or changes minor policies not included in the Administrative Plan, the policies will be distributed to field agents in memo format (pink), or by e-mail.

Annual Certification: (24 CFR 985.101(a)(2)). Each field agency will be required annually to certify that they are operating their portion of the programs in accordance with HUD and MDOC requirements listed in MDOC Admin Plan Section I- MDOC Section 2, and statements in the latest MDOC SEMAP certification submitted by the Housing Assistance Bureau Chief to HUD, on HUD form HUD-52648, as modified by MDOC.

I-6. AGENT TRAINING:

MDOC will provide at least 1 formal required attendance training session each year for MDOC program staff and Contract Field Agents on new policies or refresher training on current policies to acquaint local personnel with program changes and requirements.

~~MDOC will provide in field agent contracts each year an amount for the formalized training and certification of at least one person to allow additional continuing training or initial training for field agency personnel to promote job competency for local field agents.~~

I-7. ENCOURAGING PARTICIPATION BY OWNERS OF SUITABLE UNITS LOCATED OUTSIDE AREAS OF LOW INCOME OR MINORITY CONCENTRATION. (metropolitan areas only)

a. MDOC Metropolitan areas.

Billings (Yellowstone County)

[Carbon County](#)

Great Falls (Cascade County)

Missoula (Missoula County)

b. Known areas of poverty or minority concentration.

None

c. Required actions: Until an area is designated as having a poverty or minority concentration, there are no actions required. After designation of a poverty or minority concentration area, the local field agency will add required elements in Section II-D.1. of the MDOC Admin Plan to the briefing packet. MDOC will also advertise in local papers for prospective owners, as requested by local field agencies, to find additional rental units outside an area of poverty or minority concentration. MDOC allows participants the freedom to choose housing at any location in the United States, and will not engage in illegally "steering" participants to any particular area.

d. Identifying areas of poverty or minority concentration. MDOC local field agencies in the metropolitan areas are most familiar with local conditions, and best able to identify areas of poverty and minority concentration within their metropolitan area.

When a local field agency believes a part of it's metropolitan area is an area of poverty or minority concentration which somehow prevents Housing Choice Voucher participants from participating outside the area of concentration, the field agency will request that MDOC designate the area as having a poverty or minority concentration.

e. Requesting MDOC designation of a poverty or minority concentration. The request must contain statistical information about the percentage of poverty or minority in the area compared with that of the total metropolitan area; conclusions which lead by the local field agency to justifiable reasons for

the request; maps showing the area to be considered and remaining areas within the metropolitan area or areas outside the metropolitan area close enough to encourage voucher participation, which are not areas of concentration; housing opportunities outside areas of concentration the local field agency has identified, including areas outside the metropolitan area close enough to encourage voucher participation; and information about job opportunities, schools and services in these areas.

f. Requesting removal of an area designation of a poverty or minority concentration. If conditions change in an area of concentration and a local field agency determines the designation is no longer necessary, that agency may request MDOC remove the designation for that area. The request will include documentation of how the local field agency determined the designation is no longer necessary, justifiable reasons for removal of the designation; including statistical information about the percentage of poverty or minority in the area, compared with that of the total metropolitan area; maps of the area and remaining areas within the metropolitan area, documentation of new housing opportunities job opportunities, schools and services in the designated area.

I-8. THRESHOLD FOR ADMINISTRATIVE FEE RESERVE EXPENDITURES.

MDOC will not use remaining pre Federal Fiscal Year 2004 Administrative Fee Reserve Funds from Montana Section 8 projects covered in federal contract DEN-979, Project series MT901, for a particular housing purpose without prior written approval of the following personnel: Administrator, Housing Division; and Housing Assistance Bureau Chief. MDOC will not use Administrative Fee Reserve Funds from Montana Section 8 projects covered in federal contract DEN-979, Project series MT901, in excess of \$500,000.00 for a particular housing purpose without prior written approval of the following personnel: Director, Montana Department of Commerce; Management Services Accounting and Fiscal Manager; Administrator, Housing Division; and Housing Assistance Bureau Chief.

In addition to other uses of reserves, common uses may include supporting program operations for the MDOC HUD HOME program, supporting completion of the housing portion of the HUD required Consolidated Plan, administrative operations of Project Based Section 8 contract administration, and properly underwritten or guaranteed short term loans (less than 10 year period) for development of low income housing by local entities in the state.

I-9. VOUCHER PAYMENT STANDARDS

(24 CFR 982.503).

MDOC generally reviews voucher payment standards by bedroom size, by county, annually, within one month after receiving new Fair Market Rent (FMR) tables from HUD in October.

a. Annual Adjustment: MDOC base range for payment standards will be 90% to 106% of the HUD FMR in normal market areas, and 95% to 108% of the HUD FMR in markets tight enough to have difficulty leasing. Voucher payment standards will be adjusted annually when FMRs are published by HUD, or sooner, when MDOC determines the need, based on lease rates, HUD funding or budget limitations:

1) downward to the lower base range of 90% of the latest FMR when there are no participants located in the Payment Standard area for normal rental areas, and 95% for tighter market areas identified by MDOC; and

2) downward to equal 106% of the latest FMR, if the current Payment Standard exceeds 106% of the newest FMR for the bedroom size and county in normal market areas; downward to equal 108% of the latest FMR, if the current Payment Standard exceeds 108% of the newest FMR for the bedroom size and county in tight market areas with leasing problems and

3) upward to equal 90% of the latest FMR, if the current Payment Standard is less than 90% of the equivalent FMR for normal market areas and upward to equal 95% of the latest FMR, if the current Payment Standard is less than 95% of the equivalent FMR for tight market areas; and

~~4) upward if greater than 40% of participant rent burdens exceed 30% of adjusted income, to a point where less than 21% pay more than 30% of income for rent, excluding minimum rent participants in the calculation, unless their gross rent is greater than the payment standard; and~~

~~5) downward if less than 30% of participant rent burdens exceed 30% of adjusted income, to a point where 20% pay more than 30% of income for rent, excluding minimum rent participants in the calculation, unless their gross rent is greater than the payment standard; and~~

~~6) Downward if the average of leases since the last payment standard change have gross rents lower than the payment standard, or if the average gross rents for all leases in a payment standard area for the bedroom size are lower than the current payment standard, to the higher of the average gross rents or average gross rents since the last payment standard change, and~~

47) Downward if total HUD budget authority is less than projected HAP cost for the year, to a point where the change will yield a reduction of HAP over a yearly basis, once reductions have been made, then

58) upward if a change in a smaller bedroom size payment standard causes a larger bedroom size to have a lower payment standard in the same FMR area;

b. Special affordability adjustment. HUD targets extremely low income families (those with incomes less than 30% of the median income) for 75% of new Voucher holders assisted. In addition, no new lessee may pay more than 40% of income for rent when they lease up. This dual standard jeopardizes assistance in a payment standard area, if payment standards are too low to allow a majority of voucher holders to lease up. A payment standard may be adjusted upward any time during the year if the payment standard is not adequate to allow a majority of tenants to lease. When participants in a payment standard area are having difficulty leasing up, and a majority of vouchers in that area are at risk of expiring without resulting in approvable leases, even though voucher holders are trying hard to obtain leases, the field agent may request that MDOC raise that individual payment standard. The local field agent must clearly demonstrate that the change is necessary for operation of the program, documenting the number of vouchers issued, the number of failures to lease (in danger of voucher expiring), and the amount of payment standard at which a majority of new applicants and participants would successfully lease. Documentation must include requests for lease approval, and relevant estimator data showing the maximum amount each participant could afford under a lease, as well as landlord names, addresses and phone numbers. MDOC program specialists will review information provided, and recommend any changes to the Section 8 Program manager. The specific payment standard (county, bedroom size) will then be adjusted if necessary. A payment standard will not be adjusted if it will not yield increased lease up rates in that area.

c. ~~6.~~ (Applicable to metropolitan areas only) Local Field Agency Request for Exception Payment Standard to alleviate affects of poverty or minority concentration. The field agent may request exception from MDOC. The local field agency analyzes whether voucher holders have experienced difficulties in finding housing outside designated areas of poverty or minority concentration. Where difficulties are found, the local field agency must consider if it is appropriate to seek approval of an exception payment standard for a part of it's assigned area. The local field agent must clearly demonstrate that the change is necessary for operation of the program, documenting number of vouchers issued, number of failures to lease (in danger of voucher expiring), and the amount of payment standard at which a

majority of new applicants and participants could successfully lease. Documentation must include requests for lease approval, and relevant estimator data showing the maximum amount each participant could afford under a lease, as well as landlord names, addresses and phone numbers. MDOC program specialists will review information provided, and recommend any changes to the program manager. The specific payment standard (county or portion of county), bedroom size) will then be adjusted if necessary. A payment standard will not be adjusted if it will not yield increased lease up rates in that area.

I-10. AUTHORIZATION FOR CHANGES TO ADMINISTRATIVE PLAN.

Any changes to the MDOC administrative plan prepared by the Housing Assistance Bureau Chief must be approved by the Housing Division Administrator prior to implementation.

I-11. CHANGES IN FIELD AGENCY ALLOCATION OF HOUSING CHOICE VOUCHER SLOTS.

HUD requires a high lease rate, which is used to evaluate PHA performance under SEMAP. MDOC may reallocate authorized units at any time from one field agency to another as needed to maintain the overall MDOC lease rates for the Vouchers Program. The Housing Assistance Bureau Chief will direct the reallocation. Local conditions will be considered when reallocating authorized slots.

I-12. LIST OF MDOC LOCAL FIELD AGENTS.

a. Action for Eastern Montana; P.O. Box 1309, street address 2030 North Merrill Avenue, Glendive, MT, 59330; phone (800)227-0703 or (406)377-3564; Fax: (406)377-3570. Serves sub-state planning districts 1, 2, and 3, including Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Treasure, Valley, and Wibaux counties.

b. District 4 HRDC; 2229 5th Avenue, Havre, MT, 59501; phone (406)265-6744; Fax: (406)265-1312. Serves sub-state planning district 4, including Blaine, Hill, and Liberty counties.

c. Opportunities Incorporated; P.O. Box 2289; street address 905 1st Ave. N., Great Falls, MT, 59403; phone (800)927-2270 or (406)761-0310; Fax: (406)761-0363. Serves sub-state planning district 5, including Cascade, Chouteau, Glacier, Pondera, Teton, and Toole counties.

d. District 6 HRDC; Suite 203 Centennial Plaza, 300 First Ave. North, Lewistown, MT, 59457; phone (800)766-3018 or (406)538-7488; Fax: (406)538-2843. Serves sub-state planning district 6, including Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, and Wheatland counties.

e. District 7 HRDC; P.O. Box 2016; street address 7 N. 31st St., Billings, MT, 59103; phone (800)443-1411 or (406)247-4710; Fax: (406)248-2943. Serves sub-state planning district 7, (except for that portion of the district lying within 10 miles of the City of Billings), including Big Horn, Carbon, Stillwater, Sweet Grass, and Yellowstone counties.

f. not used

g. District 9 HRDC; 32 South Tracy Avenue, Bozeman, MT, 59715; phone (800)332-2796 or (406)587-4486; Fax (406)585-3538. Serves sub-state planning district 9, including Gallatin, Meagher, and Park counties.

Livingston branch office; P.O. Box 1530, street address 111 South 2nd Street, Livingston, Montana, 59047; phone (800)289-0896 or (406)222-0896; Fax (406)222-1232.

h. Northwest Montana Human Resource Council; P.O. Box 8300; street address 214 Main Street, Kalispell, MT, 59904; phone (800)344-5979 or (406)752-5477; Fax (406)752-6582 or (406)257-7283. Serves sub-state planning district 10, including Flathead, Lake, Lincoln, and Sanders counties.

i. District 11 HRDC; 1801 South Higgins, Missoula, MT, 59801; phone (406)728-3710; Fax: (406)728-7680. Serves sub-state planning district 11, including Mineral, Missoula, and Ravalli counties.

Hamilton branch office: 316 N. 3rd St, #152, Hamilton, Montana, 59840, phone (406)363-6101; Fax (406)363-5711

Superior Branch Office: Mineral County Courthouse, POBOX 464, Superior Montana, 59872, Phone (406)822-4251, Fax (406)822-4604

j. Human Resources Council of Butte; P.O. Box 3486; street address 304 North Main, Butte, MT, 59701; phone (406)782-8250; Fax (406)782-5568. Serves sub-state planning district 12, including Beaverhead, Deer Lodge, Granite, Madison, Powell, and Silver Bow counties.

k. Helena Housing Authority; 812 Abbey, Helena, MT, 59601; phone (800-378-7981) or (406)442-7970 or (406)442-7981; Fax; (406)442-0574. Serves sub-state planning district 8, including Broadwater, Jefferson, and Lewis and Clark counties.

l. Housing Authority of Billings; 2415 First Ave. North, Billings, MT, 59101; phone (406)245-6391; Fax (406)245-0387. Serves the area within 10 miles of the city limits of Billings, Montana.

I-13. CERTIFICATION ON FAIR HOUSING

24 CFR 982.53

MDOC certifies that it will comply with:

- | | | |
|----|---|-------------------|
| 1. | The Fair Housing Act | (24 CFR 100) |
| 2. | Title VI, Civil Rights Act of 1964, | (24 CFR 1) |
| 3. | Title II of the Americans with Disabilities Act | (42 U.S.C. 12101) |
| 4. | Section 504, Rehabilitation Act of 1973, | (24 CFR 8) |
| 5. | Age Discrimination Act of 1975, | (24 CFR 146) |

MDOC Admin Manual

6. Executive Order 11063,

updated ~~09/15/2006~~~~11/10/2004~~
(24 CFR 107)

Signature *Maureen Martin George D. Warr*, Chief, Housing Assistance Bureau

II – MDOC POLICIES FOR PARTICIPANTS AND APPLICANTS

II-A. WAITING LIST & SELECTION PROCEDURES;

24 CFR 5; 24 CFR 882.513 and 24 CFR 982-202 through 207.

1. PLACEMENT ON THE LIST.

a. *To be placed on the waiting list, an interested family must complete an application form. Application forms are available at MDOC or any of the local field agent offices throughout the state, or will be mailed on request.*

b. *Applications must be mailed to MDOC, Housing Assistance Bureau, 301 South Park Avenue, P.O. Box 200545, Helena, MT, 59620-0545. Applications will be date stamped when received at MDOC. Families experiencing difficulty in completing application forms will be assisted by either MDOC staff in Helena by phone or letter, or by the local field agent, if further assistance is needed.*

c. *A separate waiting list for all eligible families wishing to participate in the Section 8 program will be maintained by suballocation area (Local Contract Field Agent area. See Section I Listing for names and areas covered by local field agents) in the state. No applicant will appear on the overall list for more than one suballocation area. All qualifying applications will be processed in the order received, and listed in order of date of receipt, and time of computer entry.*

d. *All applications will be reviewed to determine if each family appears to meet income and family definition requirements of this plan. Applications passing review will be placed on the correct waiting list for the local field agent area where they reside. Families living outside Montana will be assigned to the suballocation list for Opportunities, Inc., and will remain on that suballocation list until offered assistance.*

e. *A family may apply for any available federal or local preference during the application process for the waiting list or any time thereafter.*

f. *Eligibility Letter: Families will be notified in writing:*

*1) of apparent eligibility,
2) that they have been placed on the waiting list,
3) that placement on the waiting list is no assurance of eligibility at the time a formal application is processed,
and 4) to report address changes and or telephone number changes to MDOC in writing within 60 days of a move. MDOC will not forward wait list correspondence to new addresses, as the applicant is responsible for reporting address changes. This prevents applicants from "jumping or shopping the list" to gain unfair advantage over other applicants.*

g. *An applicant determined to be ineligible will be notified in writing of reasons for the determination and their right to request an informal review of the decision within 10 days of notification.*

h. Mod Rehab participants, even though their names do not physically appear on the wait list (software idiosyncrasy), are a part of the wait list, waiting for Vouchers.

2. REPORTING CHANGES TO MDOC. Changes in applicant family address, or telephone number must be reported to MDOC , in writing, by the family as soon as the change occurs, but not longer than 60 days after the move. If the family does not report changes in address, which cause the local field agent to be unable to reach them within two documented contact attempts, the local field agent will request that MDOC remove the family from the list. MDOC will determine final eligibility in these cases.

3. ORDER OF SELECTION. All qualifying applications will be processed in the order received. Families will be selected from the wait list to participate in the following order:

a. **SPECIAL ADMISSIONS** 24 CFR 982.204(e). Families "targeted" by HUD to receive a special type of voucher will not be considered as part of the waiting list. MDOC received an allocation from HUD during the 2001 Fair Share voucher competition where MDOC, as a part of the ranking process was awarded extra points by HUD for agreeing to hold a percentage of one allocation for disabled families, and a portion for Section 1915(c) waived families identified by the Montana department of Public Health and Human Services. For these units, the special classed families are the only ones eligible to use these units. These families will be selected before any others on the wait list. Local field agents will keep a listing of families meeting this criteria. Assigned units are as follows: reserved for disabled families 16 units, reserved for Sec. 1915(c) families 9 units.

b. **FEDERAL PREFERENCES.** All federal preferences were removed in 1996.

c. **LOCAL PREFERENCES.** 24 CFR 5.410(b)(3). *MDOC has promised with all HUD Housing programs that it would maintain as much transparency as possible in operating the programs. Transparency means that MDOC would not cloud the programs with additional state requirements in addition to federal requirements.* Local preference will be used minimally by MDOC.

1. **Mod Rehab Local Preference.** When a family in the Mod Rehab program, due to a change in family size, no longer meets the requirements of MDOC Subsidy standards, and no other Mod Rehab unit of appropriate size is available in the local area, the family will be issued a Voucher before other families on the wait list.

2. **Adoption of New Local Preferences.** If MDOC decides to adopt a new local preference, it will advertise the proposed new preference in newspapers in Montana cities, and have copies posted in local field agent offices throughout the state. The advertising notice will have a comments due date at least 30 days later than the last advertisement. The advertisement will state the new preference, the perceived need for the preference, the date and location of the required public hearing, and an address where written comments may be sent, to be included in the final decision on whether to adopt a proposed new local preference.

d. NON-PREFERENCE WAIT LIST APPLICANTS.

1. As units become available, local field agents offer applicants Housing Choice Vouchers, or Statements of Family Responsibility (Mod Rehab), as their names reach the top of the waiting list, in order by date of application and time of computer entry. The family first on the list will be contacted by mail and/or telephone (if the applicant has furnished a telephone number). The applicant family is required to respond as directed in the local field agent notification, or be removed from the waiting list. Each family must be considered, and offered or denied assistance before moving to the next family on the list. The

field agent may move to the next family if their first contact generates no response; however, the agent must make a second contact with no response to remove the family from the wait list. If a family responds to the second request, the agent will then process the family, using the next available unit.

2. *A family owing money to any PHA will not be allowed to receive assistance under the program until the debt is repaid in full. When an applicant who owes money to any PHA reaches the top of the wait list, the local field agent will notify them in writing regarding any amount due to give the family opportunity to repay. If the family is unable to repay in full by the date required in the notification, they will be removed from the wait list, and are required to re-apply for the program.*

3. Mod Rehab units are project based with specific unit sizes at specific locations in the state. Applicants will not be penalized for refusing a Mod Rehab unit if they desire to wait for a Voucher subsidy. Families will be removed from the list only if they refuse both forms of assistance.

4. Mod Rehab participant families are not participants in the Vouchers program. Mod Rehab families must be chosen from the wait list the same as any other family to be issued a Voucher, excluding instances covered in the Montana Mod Rehab Local Preference portion of this section. For a Mod Rehab participant family to be assisted in the Voucher program, all of the following conditions must be met:

- a. The family's application date must place the family at the top of the wait list;
- b. The family has satisfied the initial 12 month term of their Mod Rehab lease;
- c. The family must request, in writing, transfer to the Voucher Program;
- d. The family must give the landlord a proper 30 day notice, or be released from the lease; and
- e. The family must not have adverse program actions pending against them and must not owe any money to MDOC.

4. REMOVING NAMES FROM THE WAITING LIST.

a. **Removing names at regular intervals (purge).** The waiting list will be purged at regular intervals (~~at a minimum annually~~~~normally each calendar quarter~~) to eliminate inactive applications, reduce unnecessary administrative burden, and insure that the list remains representative of current needs of families throughout the state. Written notice will be sent to applicants stating that they will be removed from the waiting list if they do not contact the MDOC within fifteen days from the date of the notice. If no response is received, the applicant will be removed from the wait list. *In these cases applicant files will be documented.*

b. Individual Removal of Applicants Between Major Purges.

1. Families the local field agent has been unable to contact are removed from the list.

2. An applicant not bringing requested supporting documentation to a scheduled briefing will be contacted again, and may attend the next scheduled briefing. If the applicant reaches this point and is still qualified, they must sign Declaration of 214 Status forms, and Social Security number verification for all family members. If an applicant does not provide adequate documentation at the second briefing, they are removed from the wait list.

3. **Reinstatement.** *Families removed from the list may reapply, and will be placed on the waiting list according to the date of the new application and time of computer entry. If a family was wrongly removed from the wait list during the past 18 months, they may apply for reinstatement of their original application date.*

5. CLOSING THE WAITING LIST. Closing of the list for any suballocation location in the state will be announced by public notice in a newspaper of general circulation. The list will remain closed to all applicants.

6. RE-OPENING A CLOSED WAITING LIST. Re-opening the list for any and all bedroom sizes and or suballocation areas will be announced by public notice in a newspaper of general circulation.

7. PUBLICITY AND ADVERTISING. *MDOC periodically reviews the Wait List (procedures contained MDOC Administrative Plan), to determine if publicity or other outreach methods are necessary. MDOC advertises the program when the Wait List for a field agent area is insufficient to meet local needs and Mod Rehab unit or Voucher availability. MDOC uses local newspapers in the field agent's area to advertise the waiting list. When there is specific need to publicize the program for other purposes, MDOC issues news releases to local papers in the state.*

Local Field Agents provide a unique method of information dissemination through use of bulletin boards, newsletters, and constant contact with many varied federal programs for low income people, as well as their clientele of low income people.

8. PUBLISHING. *MDOC will create a new computerized wait list for use by field agents each month. MDOC will send each field agency an updated wait list by the 15th of each month.*

9. DISPOSITION LOG AND RECORD KEEPING. *Local field agents will make appointments with families responding to selection notices and establish a tenant file folder for each family, which contains all forms associated with the family and their participation in Section 8 Housing. The local field agent is responsible for maintaining a file of notices returned unopened and any other record of contacts. MDOC will also maintain a tenant file. The assigned application number will be the unique identifier for each file. Files will be maintained for a period of three years after the last activity occurred by the family.*

The local field agent will record the result of the attempted notification of every family on the waiting list in a Monthly Disposition Log, which will be mailed to MDOC where the waiting list is updated and filed. The local field agent must assure that the Disposition Log is received by MDOC by the first of each month to ensure that changes from the field agent will be entered on the new month wait list. Agents are required to use MDOC specified Disposition codes on the Disposition Log to generate a change to the wait list. When sending changes on the disposition log to MDOC, agents only need send pages of the log which contain disposition codes changing applicant status.

II-B. DENYING ASSISTANCE TO APPLICANTS

(24 CFR 5.218, 5.232; 24 CFR 982.201, 982.552, 982.553 PIH 96-27). If an applicant is denied admission, they are still eligible to reapply for the program. They will be placed on the waiting list as of the date they reapply. In addition to all other causes listed in the CFR on applicant denial, where the MDOC will evaluate individual circumstances on a case by case basis, prior to denying assistance to an applicant, an applicant will be denied a Mod Rehab Statement of Family Participation, or Voucher if the applicant has committed one of the following serious offenses:

a. as a previous participant in the Program has not reimbursed MDOC or another PHA in connection for **amounts owed**. A family owing money to any PHA ~~will not~~ **will not** be allowed to receive assistance under the program until the debt is repaid in full. If it has been determined an~~When an~~ applicant ~~who~~ owes money to any PHA at the point of ~~reaching~~ the top of the wait list, the local field agent will notify them in writing regarding any amount due to give the family opportunity to repay. If the family is unable to repay in full by the date required in the notification, they will be removed from the wait list, and are required to re-apply for the program.

~~b.~~ as a previous participant in the Program executed a **payback agreement** for amounts owed MDOC under the above mentioned housing assistance program and **failed to reimburse** MDOC according to the terms of the agreement.

c. is determined guilty of **fraud** in connection with any Federal housing assistance program.

d. does not meet either family **eligibility or income standards** of the program.

e. as a previous participant in the Program, where the tenant caused **damage beyond normal wear and tear** in a rental unit, where the costs of cleaning, repair, unpaid utilities, and unpaid rent, as proven by a court judgment after February 29, 2000, in favor of the landlord totaled more than \$1,000, according to records maintained by MDOC.

~~f. will~~ **will not provide information** necessary for determination of total tenant payment or family composition on request.

g. If the applicant or any member of the applicant's family **refuses to sign and submit consent forms** required by 24 CFR 5.232 (HUD form 9886668), assistance for the family will be denied. The applicant is responsible for the signing and submitting of consent forms by all family members.

1). An interim is required when a family member turns 18 including updating necessary paperwork:

h. Will not provide Social Security numbers or documentation for Social Security numbers for all family members. (24 CFR 5.210)

i. participants convicted of manufacturing or production of methamphetamine

j. has engaged in drug related or violent criminal activity within the last five years

k. applicants appearing on the violent offenders and sexual offenders register are denied participation.

l. If MDOC determines that there is reasonable cause to believe that the person **abuses alcohol** in a way that resulted in unfavorable conduct and/or interferes with the health, safety, or right of peaceful enjoyment of the premises by other residents. This may be waived in accordance with PIH 96-27 (HA).

~~mg.~~ If the applicant **fails to appear for a scheduled appointment or inspection**, without canceling or rescheduling the appointment with the local field agent prior to the appointment date.

~~h. has been convicted of drug-related or violent criminal activity.~~

~~i. If MDOC determines that there is reasonable cause to believe that the person **abuses alcohol** in a way that may interfere with the health, safety, or right of peaceful enjoyment of the premises by other residents. This may be waived in accordance with PIH 96-27 (HA).~~

~~nj.~~ Has been **evicted** from Public Housing, Indian Housing, Section 23, or any Section 8 program because of drug related criminal activity. This applies for a period of 35 years beginning on the date of such eviction. This may be waived in accordance with PIH 96-27 (HA).

ok. If the applicant or any family member engages in actual or threatened **abusive or violent behavior** toward any MDOC or local field agent personnel.

P. Is enrolled as a student at an institution of higher education and according to section 327 (a) requirements is not eligible;

-Student is enrolled as a student at an institution of higher education; under 24 years of age; not a veteran; unmarried; does not have a dependent child; and is not individually eligible.

-does not meet the independence criteria as established in HUD guidance on parental income. (use MDOC procedures for Student Assistant)

IN EACH OF THE CASES IDENTIFIED IN THIS SECTION, THE APPLICANT WILL BE NOTIFIED BY THE LOCAL FIELD AGENT, OF THEIR RIGHT TO AN INFORMAL REVIEW, IN ACCORDANCE WITH THIS PLAN.

HUD Intent: The following reflects HUD guidance from the federal register final rule published 10/21/1999, changing 24 CFR 982.552. The wording is from the comments and response section, but is not included in the regulation itself. Comments from respondents to an earlier Interim [Rule, Rule](#) were taken into consideration when HUD Adopted the final rule, with responses showing HUD intent in making the changes.

Federal Register: October 21, 1999 (Volume 64, Number 203)] Rules and Regulations Page 56893-56915

[DOCID:fr21oc99-19] [Docket No. FR-4428-F-04]RIN 2577-AB91

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 888 and 982

Section 8 Tenant-Based Assistance; Statutory Merger of Section 8 Certificate and Voucher Programs; Housing Choice Voucher Program

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

EFFECTIVE DATE: November 22, 1999.

SUMMARY: This final rule adopts as final certain provisions of the interim rule published on May 14, 1999, to implement the statutory merger of the Section 8 tenant-based certificate and voucher programs into the new Housing Choice Voucher Program, and makes amendments to other provisions of this interim rule. This final rule takes into consideration the public comments received on the interim rule, and most of the amendments made at this final rule stage are in response to public comment.

...

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“Section 982.552 PHA denial or termination of assistance for family.

Comment: Mandatory termination of assistance for a tenant-based program participant evicted for serious lease violations. ...

HUD response. HUD has determined that the mandatory nature of this provision is necessary in order to foster responsibility in the Section 8 program. Section 8 assistance is a scarce benefit. This provision indicates that HUD will not reward serious lease violations, such as behavior that threatens other

residents or the safety or maintenance of the premises, by providing continued Section 8 assistance in a different unit. Furthermore, this policy will address the complaint that some assisted families have kept their Section 8 benefits even after they have caused extensive damage or incurred a large unpaid rent debt. Additional efforts to hold families accountable for actions by family members should increase owner participation and provide expanded housing opportunities for low income families in nontraditional neighborhoods. It is noted that termination of assistance is only required for an eviction resulting from a serious lease violation (not repeated lease violations). Therefore, the family will be protected by the due process they receive through the judicial eviction process and, additionally, the PHA must give the family the opportunity for an informal hearing before assistance termination.

Comment: Mandatory denial of admission if applicant is evicted from federally assisted housing for serious lease violations. ...

HUD response. Section 982.552.(b)(1) is reserved and a new paragraph (c)(1)(ii) is added to permit PHAs to deny admission or terminate assistance if any member of the family has been evicted from Federally assisted housing in the last five years. This is a change from the interim rule, which prohibited admissions of families evicted from Federally assisted housing for serious lease violations. ~~HUD may review this matter again as it finalizes the pending "One Strike" regulation.~~

Comment: Termination of assistance if participant fails to meet welfare-to-work program obligations. ...

[page 59610]

HUD response. The rule is revised to add requirements to the PHA briefing of the family participating in the welfare-to-work voucher program, and to the material provided in the family's information packet (Sec. 982.301(a) and (b)). Specifically, the PHA must advise (both verbally and in writing) the family of the local welfare-to-work voucher program family obligations and that failure to meet these obligations is grounds for PHA denial of admission or termination of assistance.

HUD is not mandating federal standards for family obligations under the welfare-to-work voucher program, since there is local flexibility in designing such obligations. The option for PHA termination of assistance or denial of admission will permit PHAs to prevent program abuse by families that willfully and persistently violate work-related obligations under the welfare-to-work voucher program. Of course, the PHA must give the family the opportunity for an informal review or informal hearing before the PHA denies admission or terminates assistance.

Comment: HUD authority to regulate terminations of assistance. ...

HUD response. HUD has authority to define grounds for termination of assistance and has done so in a comprehensive manner since 1984."

II-C. PROCEDURES FOR INFORMAL REVIEWS

(24 CFR 982.554).

1. **MDOC NOTICE.** (24 CFR 982.554(a)). *In addition to the regulatory requirements, MDOC will state that an applicant may request an informal review of the decision, in writing, within ~~20~~40 days from the date of the written notice of determination.*
2. **MDOC DENIAL OF REVIEW.** (24 CFR 982.554(c)). *If the matter does not qualify for an informal review, MDOC will send written notice to the applicant within 20 days of the request, with an explanation of the reasons for denial of the request.*
3. **CONDUCT OF INFORMAL REVIEW.** *It is important that reviews be concluded in as short amount of time as possible, since the applicant family is being denied assistance during the review period. MDOC will, if requested by the applicant in accordance with this plan, provide a review of the decision by a Housing Division staff member other than a person who made or approved the decision under review or a subordinate of that person. MDOC will provide the appointed reviewer with copies of MDOC and participant records relating to the decision, as soon as possible after the reviewer is named. MDOC will notify the applicant, in writing, of the scheduled review. The appointed reviewer will contact the requesting applicant before completing the review to determine whether all evidence (oral and written) from the applicant is presented. The applicant will be promptly notified, in writing, of the final review decision, including a brief description of the reasons for the final decision.*

II-D. BRIEFING APPLICANTS, ISSUING & EXTENDING VOUCHERS

1. APPLICANT INITIAL BRIEFING AND BRIEFING PACKET (24 CFR 982.301; MOD REHAB 24 CFR 882.514(d)). Applicant Families will be notified by phone (if possible) or mail when a briefing will be conducted by their local field agent, and that:

- a. if they wish to participate in the program, they must attend;
- b. if they do not attend the scheduled briefing and fail to contact the local field agent regarding the missed appointment, they will be removed from the wait list; and
- c. that they are required to bring supporting documentation to verify names, dates and places of birth, gender, and initial income eligibility verification for all family members. If more than 60 days passes before a field agent forwards a request for lease approval to MDOC, a separate final income eligibility verification is required.

Briefings will be conducted in a group setting whenever possible, depending on the number of vacant vouchers available. In group briefings, if more families attend than there are subsidies authorized, the families at the top of the wait list will be issued assistance first, until the authorized number of units is exhausted. If an applicant does not bring requested supporting documentation to a briefing, that applicant will not be assisted. When this happens, the next applicant on the list will be offered assistance. The remainder of the qualified applicants may attend the briefing, and will be issued assistance as units become available, before the next scheduled briefing, in order by date on the wait list, if they have provided all required information at the briefing.

An applicant not bringing the requested supporting documentation will be contacted again, and may attend the next scheduled briefing. If the applicant reaches this point and is still qualified, they must sign Declaration of 214 Status forms, and Social Security number verification for all family members. If an applicant does not provide adequate documentation at the second briefing, they are removed from the wait list.

Applicants will be given copies of all items on the MDOC checklist in the tenant briefing packet, and the local field agent will explain all items on the MDOC tenant information oral briefing checklist at the briefing. Applicants will be required to sign the checklist forms indicating that they have received the materials listed. Applicants will also be informed that they must contact the local field agent at least two weeks prior to expiration of their voucher if they are having trouble finding a suitable unit to rent.

All supporting documents must be sent to MDOC with the signed Voucher by the field agent (must include a correct applicant mailing address). Subsidies will be authorized by the appropriate MDOC Program Specialist, and a copy will be mailed to the applicant. As part of the authorization process, applicants will be transferred from the wait list to the main work files on the computer system by the appropriate MDOC Program Specialist.

2. HOUSING LISTS. Local Contract Field Agents maintain a list of landlords who have participated or expressed a desire to participate in Section 8 Housing as an aid for families searching for rental units. A family may choose any eligible rental unit where a landlord agrees to participate in Section 8.

3. ISSUING VOUCHERS (24 CFR 982.302; Mod Rehab - 882.514(b)). As units become available, applicants are issued Housing Choice Vouchers, or Statements of Family Responsibility (Mod Rehab), in order, as their names reach the top of the waiting list. Applicants are not penalized for refusing a Mod Rehab unit if they desire to wait for a Voucher subsidy.

4. TERM OF VOUCHER. The initial term of MDOC vouchers MDOC will be 60 days.

5. MONITORING VOUCHER HOLDERS. Voucher holders are required to contact their local field agent in writing at least twice during the initial sixty day issuance period to inform the field agent of their efforts in locating a unit and to identify difficulties families may be experiencing in finding suitable units. Final contact is required at least two weeks before the voucher expires to assure the applicant finds and leases a suitable unit.

6. EXTENSIONS (24 CFR 982.303(b)). Voucher holders are required to provide the local field agent with a request for lease approval, or request an extension of the voucher term in writing, prior to expiration of the initial voucher term.

The length and number of extensions will be determined by the local field agent based on the ability of the participant or applicant to demonstrate the need for more time to secure a lease. A statement of the reason for an extension must be sent by the field agent to MDOC when an extension is approved. There will be no extensions beyond 120 days of the date of original issue of the voucher.

A. Port vouchers will not be extended beyond the first 60 days without written authorization from the initial PHA.

B. MDOC Vouchers will be extended only if the following criteria has been demonstrated:

a) the applicant or participant can verify extenuating circumstances,—and through their contact with the local field agent can clearly demonstrate that they have made every effort to secure a suitable unit, and

b) The applicant or participant has not refused a suitable unit without good cause, and

c) There is a reasonable possibility that an extension of the voucher will result in an approveable lease and the execution of a Housing Assistance Payments (HAP) contract, including where a participant is found to be owing money to MDOC after a voucher is issued.

7. SUSPENDING THE TERM OF A VOUCHER. MDOC will not suspend voucher terms.

II-E. SPECIAL HOUSING TYPES

(24 CFR 982.600 SERIES).

1. ALLOWABLE SPECIAL HOUSING TYPES: To insure maximum tenant choice in selection of rental units in the MDOC tenant based vouchers program, tenants will be allowed to choose among the following types of special housing:

~~Congregate Housing,~~
Group Home Residence,
~~Shared Housing,~~
~~Cooperative Housing~~
Manufactured Home Rental Space Housing, and
Homeownership.

SRO housing is not allowed, *as it requires HUD, local government and MDOC approval, as well as documentation of need for the units, and certification that the local government has inspected the properties and they meet local health and safety codes, which are more stringent than HQS. It is not in the best interest of the program to have competing inspection requirements. There are no HUD approved SRO facilities in the state at this time.*

Rental of manufactured homes is a primary type of housing, so it is allowable and not considered as a special housing type.

2. HOMEOWNERSHIP OPTION: MDOC will permit members of eligible families in the Housing Choice Vouchers Program the option of purchasing and owning a home using their Section 8 assistance, rather than using the assistance for renting.

A. General MDOC Local Field Agent (LFA) Information and Requirements:

1. The Homeownership program will be operated in a similar and consistent manner throughout the state.
2. All MDOC LFAs participate in the homeownership option. These LFAs are required to maintain a minimum lease rate of 90% (number of units under lease divided by number of units under MDOC Contract for vouchers, including over issues) to insure that they generate sufficient fee revenue to offset additional duties required in homeownership.
3. Each individual LFA is required to estimate their capacity and usage for the upcoming year, and provide this estimate to MDOC in writing by December 1 each year. MDOC will determine final program size authorized for each LFA. Maximum program size will be 10% of the total number of vouchers under MDOC ACC.
4. HUD requires PHAs using the Homeownership option to develop numerous policies. **This section of the Admin Plan is set up in the same order as Homeownership appears in the 24 CFR part 982,** to make it easier for LFAs to coordinate reference in the federal regulations to the Admin Plan.

B. (24 CFR 982.625(g)(3)) - General Homeownership Requirements:

PHA demonstration of capacity to operate a successful homeownership program; MDOC requires a minimum homeowner down payment of at least 3% of the purchase price for participation in the homeownership option. Of this 3%, at least 1% of the purchase price must come from the families'

personal resources. Purchase price includes closing costs, so amounts put toward closing costs by the family are included in the 1% and 3% calculations.

C. (24 CFR 982.626) - Initial requirements for Families:

Sec. 982.626(a) - Determination if family is qualified.. LFAs determine if the family meets all initial requirements in 24 CFR 982.626, 627, 628, and 630).

Sec. 982.626(b) - Additional MDOC requirements:

- a. Applicant families are not eligible for homeownership assistance.
- b. A participant family in the MDOC Voucher program must have completed at least 1 year of participation in good standing, and have completed the LFA Homeownership Counseling Course to be eligible for the MDOC Homeownership Program.
- c. In selecting participant families for the limited slots in the LFAs homeownership counseling program, preference will be given to elderly and handicapped families, as well as to those families participating in the Family Self-Sufficiency program or the Individual Development Account program, all other factors being equal.
- d. Voucher participants are not eligible for participation in the MDOC Homeownership Program, if any debt is owed to MDOC, or any other PHA or housing agency. Voucher participants who have owed MDOC or another PHA or housing agency money, and have fully repaid the debt prior to entering any portion of the homeownership program (including the housing counseling program) are eligible, if they meet all other eligibility requirements for homeownership.
- e. In selecting participant families for the MDOC Homeownership Program, the LFAs will develop a first come-first served list of those families who have successfully completed the homeownership counseling program in their local jurisdictional area, and draw from this list in order to enroll families in the Homeownership program.
- f. Participants porting in from another PHA interested in participating in homeownership must have completed at least 1 year in good standing in the other PHA jurisdiction. The participant family porting in does not have to meet another 1-year MDOC period.

Sec. 982.626(c) - Environmental Requirements:. LFAs are responsible for ensuring compliance and documentation with requirements in 24 CFR 58.6, specifically in reference to flood hazard areas and airport clear zones.

D. (24 CFR 982.627) - Eligibility requirements for families. (See Sec.982.626(a) for initial and (b) for additional requirements.)

Sec. 982.627 (d) Employment requirements. The LFA may also consider to what extent temporary and seasonal work and an employment interruption is considered permissible in satisfying the employment requirement. (e.g. considering what constitutes successive employment during a one-year period and self employment in a business). The MDOC reserves the right to make a final determination on any contested cases.

E. (24 CFR 982.628) - Eligible units. Any seller of property to a homeownership participant, and the homeownership participant, must be checked by the LFA to ensure that they are not listed on the HUD Debarment list under 24CFR part 24 (found on web site <http://epls.arnet.gov/>), and the LFA must sign a certification to that effect.

F. (24 CFR 982.629(a)) - Additional requirements for family search and purchase.

The family must submit a sales agreement containing specific components to the LFA for approval within one year of their acceptance into the homeownership program (acceptance occurs after successful

completion of homeownership counseling). The LFA will require that the family provide quarterly reports to monitor the family's progress in finding and purchasing a home.

G. (24 CFR 982.630) Homeownership Counseling.

Sec. 982.630(d). Families may be required to participate in approved homeownership counseling programs on a continuing basis after acceptance into the Homeownership Program at the discretion of the LFA or MDOC, based on the performance of the homeownership participant.

Sec. 982.630(e). The counseling agency providing the LFA counseling program shall either be approved by HUD or the program shall be consistent with the home ownership counseling provided under HUD's Housing Counseling program. The program must contain the suggested topics listed in 982.630(b). LFAs may require additional topics at their discretion based on participant need.

H. (24 CFR 982.631) - Home inspections and contract of sale . Local Field agents determine if the family meets all requirements of this section.

I. (24 CFR 982.632) - Financing purchase of home; affordability of purchase. LFAs determine if these requirements are met, including; 982.632(e). Financing options are limited to mortgage type financing that comply with secondary mortgage market underwriting requirements, or generally accepted private sector underwriting standards.

J. (24 CFR 982.633) - Continued assistance requirements; Family obligations. LFAs determine if the family meets all requirements of this section. The family must notify the LFA within 10 days of missing a mortgage payment, and; The family must attend LFA foreclosure counseling within 30 days of missing a mortgage payment or homeownership assistance may terminate.

Sec. 982.633(b)(3)ii. The family must notify the LFA in writing at least 30 days prior to any proposal to refinance the original purchase mortgage or of any proposal to encumber the property with secondary financing and obtain the LFA written approval of such financing prior to executing any loan documents.

A family may not rent or lease any part of the premises without MDOC prior written consent.

Sec. 982.633(b)(8). Although the homeownership program does not require annual Housing Quality Standards (HQS) inspections, the LFA may request that a family permit an HQS inspection, with appropriate notice, not more than once a year, with the intent of referring the family to programs that may be able to assist them with the cost of repairs and maintenance of the home. Since HQS inspections are not a HUD requirement, results of these HQS inspections will not affect participation in the Homeownership program by the family, or continuation of a Homeownership Assistance payment.

K. (24 CFR 982.634) - Maximum term of homeownership assistance. LFAs determine if these requirements are met, including 982.634(a). The LFA will provide MDOC a report listing any homeownership family whose maximum term is within one year of expiration.

L.(24 CFR 982.635) - Amount and distribution of monthly homeownership assistance payment. LFAs determine if these requirements are met, including;

Sec. 982.635(c)(2). A monthly allowance for maintenance expenses and for costs of major repairs and replacement per LFA calculations.

Sec. 982.635(d). The LFA will provide the lender with notice of the amount of the homeownership assistance payment prior to the close of escrow. At the discretion of the lender, the LFA's contribution towards the family's homeowner expense will be paid directly to the family or to the lender. If paid to the family, the family will be responsible to submit the entire mortgage payment to the lender. Participants are required to have an escrow account at a financial institution where MDOC sends Homeownership Assistance Payments using direct deposit, and the mortgage holder sweeps funds to pay principal, interest, taxes and insurance. The participant family is required to deposit the family contribution to the account each month. The participant family is required to report maintenance and repair reserve balances to the LFA at the time of annual income verification.

Sec. 982.635(e). If the automatic termination of homeownership assistance 180 calendar days after the last housing assistance payment on behalf of the family results in extreme hardship for the family, the LFA may request that MDOC grant relief from this requirement based on a case by case determination. MDOC will make the final determination.

M. (24 CFR 982.636) - Portability . LFAs determine that these requirements are met, including; 982.636(a) Insuring that normal MDOC portability-processing procedures are adhered to.

N. (24 CFR 982.637) - Move with continued tenant-based assistance. LFAs determine that these requirements are met, including;

Sec. 982.637(a)(1).

Selling the home. A family may not transfer, sell or assign an interest in the property without LFA prior written consent.

A family must notify the MDOC LFA in writing at least 30 days prior to moving out of the house for a period of 30 days or longer or prior to any sale, transfer, assignment, lease or other form of alienation of the assisted property.

Sec. 982.637(a)(3). Families receiving homeownership assistance may not move more than once during any one-year period.

Sec. 982.637(b)(1). If a family moves to a new unit while receiving homeownership assistance, the LFA may require that the family complete additional counseling.

O. (24 CFR 982.638) - Denial or termination of assistance for family. LFAs determine if the family meets all requirements of this section.

P. (24 CFR 982.641) - Applicability of other requirements. LFAs determine that these requirements are met.

II-F. OCCUPANCY POLICY

(24 CFR 5.403).

1. CONTINUOUSLY ASSISTED. A family is continuously assisted when they are currently assisted in expiring HUD Section 8 Project based programs in Montana which are being converted to tenant based assistance. This includes both Moderate Rehabilitation and Project based units (both as regular or preservation vouchers) converting to vouchers as contracts expire. Tenants in the projects who are temporarily out of a unit on the date of conversion as a result of disaster (unit damaged by flood, etc), or medical treatment (in hospital or nursing home short term for care of a medical condition) are eligible for admission as continuously assisted.

MDOC has no public housing units. Public housing tenants of other Housing Agencies are not considered to be continuously assisted for admission to MDOC programs.

2. FAMILY: 24 CFR ; 5.403; 5.504 ; 982.201; 984.103 In addition to the CFR,

1) Where there are two or more persons sharing residency whose income and resources are available to meet the family's needs and who are related by blood, marriage (including common-law as defined under Montana law), adoption or as a foster child; or who have established a "family-type" relationship.

2) **Visitors** (defined below) are not family members.

3. VISITOR. *If an adult "visitor" stays in a rental unit for more than 30 days per year, they will be considered a member of the household, and must have the written permission of the owner/manager to stay longer than 30 days (or as specified in the lease if a shorter period is provided, or family members or number of residents are named in the lease).*

Minors may visit for up to 90 days per year without being considered as a member of the household as long as they have written permission of the owner/manager to stay longer than 30 days (or as specified in the lease if a shorter period is provided, or family members or number of residents are named in the lease) and the head of household still claims them as temporary members.

Minors and college students who were part of the family but who now live away from home during the school year and are not considered as part of the household may visit for up to 150 days per year without being considered a member of the household as long as they have written permission of the owner/manager to stay longer than 30 days (or as specified in the lease if a shorter period is provided, or family members or number of residents are named in the lease).

In a joint custody agreement, if the minor is in the household less than 183 days per year, the minor will be considered to be an eligible visitor and not a family member. A minor will be subsidized as a family member of only one household.

II-G. SUBSIDY STANDARDS

(982.4; 982.401(d)(2)(ii); 982.402).

1. FAMILY BEDROOM REQUIREMENTS are:

One bedroom for the head of household and significant other and/or partner; ~~spouse~~;

One additional bedroom for every two remaining family members and essential persons, which allows the family to choose that family members six years of age or older are not required to share a bedroom with family members of the opposite sex, that children are not required to share a bedroom with other adult family members, and that children of the same sex with more than 6 years of age difference are not required to reside in the same bedroom. Children under the age of two, of either sex, may share a bedroom with parents for purposes of meeting the occupancy standards. Children over the age of two are not be required to share the same bedroom with a single parent head of household, unless that is family choice.

One additional bedroom for head of household or spouse, or any remaining family member(s), who, because of health or disability reasons documented in writing by a medical provider or someone with access to medical records such as a vocational rehabilitation counselor, therapist, or case manager, must have a separate bedroom. *Documentation will be reviewed by MDOC prior to authorization.*

One additional bedroom for a live in attendant (aide) required because of health or disability reasons documented in writing by a medical provider or someone with access to medical records such as a vocational rehabilitation counselor, therapist, or case manager. *(Also in 24 CFR 5.403). Documentation will be reviewed by MDOC prior to authorization.*

Definition from 24 CFR 504.4 Child is defined as a family member under 18 years of age.

Definition from 24 CFR 982.401(d)(2)(ii): Space requirements “The dwelling unit must have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.”

Definition from 24 CFR 5.403: “Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- (1) Is determined to be essential to the care and well-being of the persons;*
- (2) Is not obligated for the support of the persons; and*
- (3) Would not be living in the unit except to provide the necessary supportive services*

~~2.~~

2. COUNTING FAMILY MEMBERS: Every family member, regardless of age (including foster children residing in the unit), will be counted.

a. An unborn child, or child in the process of legal adoption will be counted as a person for occupancy purposes.

b. Family members~~Children~~ temporarily absent from the home (the absence must be documented to maintain the payment standard for the additional family member).

c. Repeated changes in family composition which effect the payment standard may result in the lower payment standard.

3. EXCEPTIONS: MDOC may grant exceptions from the standards if MDOC determines the exceptions are justified by the relationship, age, sex, health or handicap of family members, or other individual circumstances.

~~**4. VISITORS.** See Occupancy Policies.~~

45. SPECIAL RULES FOR VOUCHERS: A family may rent a smaller or larger size unit than stated on a voucher, as long as the unit complies with HQS, subsidy standards, and payment standard limit for the family bedroom size listed on the voucher. Utility Allowances will be based on the actual bedroom size, by design, of the unit.

II-H. HOUSING QUALITY STANDARDS (HQS).

24 CFR 982.401; 882.404.

1. INSPECTIONS. 24 CFR 982.405; 882.516(b). HQS Inspections will be conducted by local field agents. Units will be inspected using the standards in 24 CFR 982.401, using HUD inspection forms. Local field agents may employ local building inspectors to perform inspections, on a regular basis or in response to work load demands.

Local field agents will receive training on HQS and their application using MDOC inspection booklets. The inspection booklets completed by Local field agents will be reviewed by MDOC to assure accurate interpretation of criteria for decent, safe and sanitary housing. MDOC will maintain inspection forms and any statements by the landlord, tenant or Local field agent regarding the unit's condition.

When an inspection which results in HQS violations being discovered, no matter whether the inspection was conducted by MDOC or field agent personnel, a letter must be sent to the landlord informing them of the timeline and required corrections, within one day for safety and other serious matters, and within 5 working days of the inspection for other required corrections.

Units failing the HQS on ~~annual~~^{first} inspection may be given up to thirty (30) days to correct deficiencies. Except for health, safety, or life threatening items, repairs prohibited by weather may be postponed, however, a signed statement from the Landlord with a specific completion date prior to annual certification is required. Units failing inspection for health, safety, or life threatening items must be reinspected after completion of repairs. Units failing inspection for other items, may be passed upon written certification signed by landlord and tenant that all repairs have been completed.

Units failing the HQS on initial lease up inspection must be reinspected regardless of HQS failure.

For voucher units where leases started after 10-1-95, MDOC field agents will not conduct condition of premises inspections in addition to HQS.

If there is a problem within a rental unit which arises between regularly scheduled annual inspections, the tenant may request an inspection.

Lack of heat in a rental unit during the months of October through March each year will be considered by MDOC to be a health and safety violation, which must be corrected within 24 hours.

2. CONTRACT FIELD AGENCY ANNUAL REVIEW. MDOC will annually review procedures and determinations of local field agents. This review will be a comprehensive evaluation of five percent of local field agent leased units, conducted at various times during the year in conjunction with normal field agent scheduled inspections, to preclude the need for additional inspections scheduling and performance. The 5% review will be on short notice by MDOC, and include:

- a) review of inspection procedures and results with field agent while the actual inspection is taking place to evaluate inspection procedures for compliance with HQS;
- b) case file review to assure accurate determination and recording of annual income, assets, allowances, and adherence to law, regulations, and MDOC policies; and
- c) review of local field agent records to evaluate "first-come, first-served" selection from the waiting list.

II-I. RECERTIFICATION

(24 CFR Mod Rehab - 882.515; Vouchers 982).

1. RESPONDING TO FIELD AGENT REQUESTS FOR RE-EXAMINATION. *Field agents schedule annual reexaminations 90 to 120 days ahead of the participant's anniversary date, to give adequate time for the reexamination process. Participants must respond to field agent reexamination letters within one week of the date on the letter. The field agent is required to make three attempts to contact the participant, at least 7 days apart, to allow participants adequate time to respond.*

2. REPORTING Changes (ie income; family composition)INCOME: *Subsidized families are always required to report changes in family membership or changes in income to the local field agent, in writing, within 30 days of the date of change, using the required MDOC income reporting receipt form(s) provided to all participants. The same procedures as were used in the initial certification are to be used in the recertification process.*

When a tenant reports an income increase exceeding \$300 per month since the initial certification or last annual recertification, the increase substantially affects the Family Share of Rent, and requires a recertification, and change in family share of rent for the family. When FSS families request an interim reexamination, any upward change in income (even those less than \$300 per month) will require recertification if the change results in an increase of escrow account. Changes in tenant rent due to changes in family membership or income increases will be effective the month following the month in which the change is reported.

When a family fails to report income changes (See Section II-R of this plan for consequences), the \$300 limit (above) will not apply. The family is responsible for inclusion of all income not reported (back to the date of income change) as a part of their family share of rent, and will be required to sign a repayment agreement.

From time to time, due to extenuating circumstances (changeover of software, etc.) MDOC will suspend performing interim reexaminations for tenants. This will be done by letter to all local field agents. The notice will indicate the reason for the suspension, and the time frame over which the suspension will apply.

3. SEASONAL EMPLOYMENT *income is counted in annual income. ~~Seasonal employment is work that is carried on each year, generally during the same time of year. Examples include, but are not limited to, carpentry and cement work, employment in tourist locations and ski areas, logging, casual firefighters for the forest service (where the firefighters are trained to go out to fires or smokejumpers or hot shot teams), workers on large highway projects (equipment operators, laborers, flag persons, surveyors), working for a temporary employment agency, and bowling alley personnel, where the establishment is closed during the summer months.~~*

4. TEMPORARY EMPLOYMENT *income is not counted in annual income. Temporary work is work that is less than 31 days by intention. ~~This would include any spot job that will last less than 31 days. The employee would be informed of appropriate length of the job when employed, based on the hiring criteria of the employer, as established by labor laws. Examples include, but are not limited to: babysitting, setting up equipment, unloading freight, moving job. A person who was hired at a full or part time job, but quit or was fired in less than 31 days would need to report wages, and these wages would be included in income.~~*

II-J. MOVES AND PORTABILITY

(24 CFR 982.353)

1. LIMITING MOVES BY FAMILIES OWING MONEY. Families (including all family members) who owe MDOC or other PHAs money are not allowed to move or port, even if they are current on a repayment agreement, until the balance owed is paid in full.

2. PORTABILITY TO AND FROM OTHER STATES.

A family will not be allowed to port out of the MDOC jurisdictional area more than once in a twelve month period.

MDOC will accept vouchers from all other jurisdictions, and may issue a voucher under its own ACC if one is available.

MDOC will not allow a participant family to port out of the MDOC jurisdictional area to any PHA where the payment standard for that area is higher than that of MDOC for the same bedroom size if it does not have sufficient funds to pay the rent for families that move to a higher cost jurisdiction. (This is a denial to move for insufficient funding per 982.314(e)(1)), as it will cause budgetary problems in the MDOC program under budget basing changes instituted by HUD in 2004. MDOC Contract Managers will secure written verification from the proposed receiving PHA of the payment standard before any port out is allowed. The Contract Manager would need to contact the receiving PHA and confirm that the receiving PHA will not absorb the family. If the receiving PHA is willing to absorb the family, there are no grounds to deny the move under 982.314(e)(1).

3. LIMITING MOVES BY NON-RESIDENT APPLICANT FAMILIES (24CFR982.353(c)), During the first 12 months from the time the family is admitted to the program, the family will not be allowed to lease a unit outside Montana.

4. LIMIT ON NUMBER OF MOVES PER YEAR. The minimum lease term allowed under the MDOC programs is one year. A tenant may only move within the first year of a tenancy if they receive a release from their landlord. This will cause mutual rescission of the lease.

5. PARTICIPANT MOVES WITHIN THE MDOC AREA: *The Housing Choice Voucher Program does not require income eligibility determination after a family becomes a participant (after the initial HAP contract has been executed for that family). MDOC Participants who move (transfer) within the MDOC jurisdiction will be treated similar to portability participants covered by 24 CFR 982.353(d)(2). Income eligibility testing is not required for these participants to move.*

a. Eligible families, per section 8 wait list, are required to lease a unit within the issuing jurisdiction for not less than 12 months before becoming eligible for a transfer.

If a participant family accepts a "Notice to Pay Rent or Quit" as a result of nonpayment of rent ~~eviction~~, and moves based on the notice, MDOC ~~will not reissue a voucher.~~ C, for tenant eligibility purposes, will consider the move based on the notice as a move by the participant with proper notice, the same as if

~~the participant had given written 30-day notice. In this case MDOC will not give the landlord a 30-day notice.~~

II-K. FAMILY ABSENCE FROM UNIT.

Family absence from a unit for an extended period of time does not excuse family failure to notify MDOC of income or family composition changes or respond to MDOC or field agent requests for information on income, family composition changes, or reexamination requests.

If ~~the family a tenant~~ is going to be absent from a unit for more than ~~3090~~ days, they are required to notify their local field agent, in advance of the absence, in writing, of the amount of time the family will be absent, and justification for the absence. MDOC will determine if additional time, up to the 180 day federal limit is justified.

If the family is absent from the unit for more than ~~3090~~ days without contacting MDOC first, assistance will be terminated for the family.

II-L. BREAK-UP OF FAMILY

(24 CFR 982.315)

The following are used when breakup or dissolution of an assisted family requires that MDOC determine which family members will retain the Section 8 Rental Subsidy. There is only one subsidy per family. Individual circumstances will be considered in each situation.

In absence of a court decision:

In all cases below, whenever a family member or members are forced to move as a result of actual or threatened physical violence against other family members, the violent member will not retain subsidy, no matter whether the remaining non-violent family members are forced to move, or the violent member is forced to move.

1. When there are children in the family, and one parent vacates, the custodial parent will retain subsidy.
2. When there are children in the family, and one parent and the greater number of children vacate the unit in a move, the significant other and/or partnerspouse remaining will not retain subsidy, but may re-apply for assistance.
3. When there are an even number of children in the family, and one parent vacates with half of the children, the Head of Household will retain the subsidy.
4. When joint custody of children is adjudicated without the court deciding who retains subsidy, the parent remaining in the rental unit will retain subsidy.
5. When there are no children in the family, the person remaining in the rental unit will retain subsidy.
6. If the family contains an elderly or disabled person, subsidy will stay with the portion of the family containing the elderly or disabled person.

II-M. PROCEDURES FOR COLLECTING AMOUNTS TENANTS OWE THE MDOC.

All funds owed MDOC must be fully repaid within 12 months of the date of determination of the amount owed to MDOC. Longer periods may be considered on a case by case basis. If a family owes money to MDOC under the Section 8 Program, and their income is such that they receive a utility allowance payment, MDOC will retain the utility allowance payment to offset the debt, if the tenant agrees (at the option of the Tenant) in writing.

1. DAMAGE REPAIR AND UNPAID RENT CLAIMS. After processing payment on a claim, MDOC will contact the tenant through the local field agent, and requests signature of a repayment agreement, if the tenant wishes to continue on the Section 8 program. If a participant refuses to sign a repayment agreement, or request an administrative review of the claim, the participant will be denied issuance of further vouchers under the program. If the tenant has a current voucher, but has not been housed yet, MDOC will not approve a tenancy until repaid in full. If the former tenant does not repay, the unpaid balance will then be turned over to the State Auditor and/or a Private Collection Agency for collection. If MDOC is unable to locate the tenant, the balance will also be turned over to the State Auditor and/or a Private Collection Agency for collection.

2. RECOVERY OF UNREPORTED INCOME. Tenants are always required to report all income changes. Tenant reported income increases amounting to \$300 or more per month require recertification.

Income changes not reported by the participant often result in the participant being billed for an amount of money to increase their tenant share of rent to the 30% limit set by HUD. When a family chooses not to report income changes (See Section II-R of this plan for consequences), the \$300 limit (above) will not apply. The family is responsible for inclusion of all income not reported as a part of their family share of rent, retroactive to the date of income change. On reexamination, before a new contract is executed (unless the amount of unreported income is ~~\$1,500.00~~ or more, where the participant is terminated), a repayment agreement must be executed. If the participant refuses a repayment agreement, MDOC will terminate assistance, refuse to issue of a voucher, or refuse to approve a new tenancy until after full payment is received.

If the repayment agreement has been determined to be in default MDOC may forward the agreement to a collection service.

If the amount owed MDOC is greater than ~~\$5,000~~ ~~1,500.00,~~ ~~and MDOC is either unable to contact the participant, or the participant refuses to sign the repayment agreement,~~ or fraud is involved, MDOC may turn the claim over to either the FBI or HUD Office of the Inspector General for investigation, ~~collection,~~ or possible prosecution, as well as the State Auditor and or a private collection agency for collection.

3. BARRING PROGRAM RE-ENTRY FOR PREVIOUS PARTICIPANTS OWING MONEY TO ANY PHA. *A family owing money to any PHA will not be allowed to receive assistance under the program until the debt is repaid in full. When an applicant who owes money to any PHA reaches the top of the wait list, the local field agent will notify them in writing regarding any amount due to give the family opportunity to repay. If the family is unable to repay in full by the date required in the notification, they will be removed from the wait list, and are required to re-apply for the program.*

II-N. DAMAGE REPAIR, UNPAID RENT, & VACANCY CLAIM PROCESSING.

1. LANDLORD CLAIM FILING. *Landlords are allowed to file claims against tenants (Mod Rehab and Vouchers leased prior to 10-1-95) to repair damage to rental units caused by tenants while living in the units, for unpaid tenant rent up to a maximum of 90 days, and for rental vacancy when a tenant moves in violation of a lease. The landlord is required to file the claim with MDOC within 45 days after the move-out (damage) inspection. Claims will not be paid by MDOC unless copies of both the initial move-in and move out inspections are included with the claim.*

2. CLAIM DISPUTE PROCESS. *When a claim is filed with MDOC, a notice of pending damage repair claim and a copy of the claim is sent by MDOC to the participant involved for review, comment and rebuttal. The notice contains instructions that the participant must protest payment of all or parts of the claim within 20 days of the date of the notice. The participant must reply to MDOC within the allowed response time frame, or the claim will be considered fully validated by the participant. **If the participant does not contact MDOC within the allowed 20 day response period to dispute the claim, the participant relinquishes all further complaint rights concerning the claim.***

3. CLAIM PROCESSING. *After receipt of a protesting participant response to a claim, or expiration of the allowed time for protest of the claim, MDOC staff will process the claim for payment. MDOC staff will review all documents submitted by the landlord, participant, move-in inspection results, move-out inspection results, the MDOC depreciation schedule, and all other MDOC documents related to the participant tenancy concerning the claim. MDOC staff will make a determination as to validity of the claim, and order payment to the landlord if appropriate.*

4. ADMINISTRATIVE REVIEW. *At the time claim processing is complete, MDOC will send notice of payment to the affected participant. If the participant had protested the claim within the 20 days allotted time after initial notice of the claim by MDOC (as in 2. above), and the participant is still unsatisfied with claim resolution, the participant may request a review of claim processing to insure that determination which resulted in payment of the claim was made fairly, that factors identified by the participant were taken into account during the determination and that MDOC staff properly processed the claim.*

Pending the results of a review, after a claim is paid on behalf of the participant (tenant), MDOC will collect amounts paid to the landlord from the participant for the damage repair amounts, vacancy payment, and unpaid rent, as they are the liability of the participant.

II-O. ASSISTING VOUCHER HOLDERS ALLEGING ILLEGAL DISCRIMINATION.

Voucher holders are advised of rights regarding Housing Discrimination and provided with HUD Form 903. They are referred to the Montana Human Rights Bureau and Montana Fair Housing. They are also advised to seek assistance from Montana Legal Services.

II-P. SECURITY DEPOSITS.

When applying 24 CFR 982.313, local field agents will determine the amount of average security deposit for the local rental area.

II-Q. TENANT FAMILY CONTRIBUTION;

1. MINIMUM RENTS. (24 CFR 5.630) MDOC minimum rent is \$~~4025~~.00 per month effective January 1, 2007.(this change will become effective with the families first annual reexam on or after the effective date of change.) Financial hardship includes only the situations listed in 24 CFR 5.630(b)(1) i, ii, iii, and iv. There are no other MDOC defined hardships.

A family may request a financial hardship exemption to the minimum rent *by submitting a written request to the Local Field Agency, who will forward it to the MDOC, with a recommendation, after verification of circumstances claimed in the request.* The request must be received by MDOC by the 20th of the month preceding the first day of the month in which the rent is due, to give adequate time for processing the request.

When a family is granted a long term hardship exemption, MDOC will notify the family in writing that the family is exempt from the minimum rent requirement for the duration of the financial hardship, and specify a duration if appropriate for a term over 90 days. The Local Field Agent will contact the family and evaluate the status of the exemption every thirty- (30) days, beginning with the date of exemption.

2. VERIFICATION. (24 CFR 5.617).*In identifying Tenant Rent for a family, the local field agent will verify all family income, resources, medical expenses and day care expenditures. Documents such as receipts, check stubs, bank statements and letters of eligibility supplied by the family may be used for calculation of rents, but not in place of proper verification.*

A family claiming disability or handicapped status will be required to have an appropriate medical professional verification. This is required unless the individual is a recipient of Social Security Disability , Supplemental Security Income, or VA disability.

3. TENANT UTILITY PAYMENTS *Tenants will receive a monthly check from MDOC made out to the head of household when Tenant Rent is less than the tenant-paid utility allowance. MDOC will not issue a monthly utility allowance check for less than 10 dollars but will issue the payment when the accumulated amount is greater than 10 dollars.*

II-R. PARTICIPANT TERMINATIONS.

(24 CFR 984.552 (general), 982.455 (180 day 0 HAP), (24 CFR 5.218, 5.232 verify SSI, & consent forms).

*In addition to all other causes listed in the CFR on participant termination, where the MDOC evaluates individual circumstances on a case by case basis, prior to terminating assistance of a participant, a participant currently receiving the benefit of housing assistance payments as a result of an active contract, **will** have assistance terminated from the Mod Rehab or Voucher Program and also refuse to issue a voucher for a move to another unit, approve a new tenancy, or execute a new contract if the participant has committed one of the following serious offenses:*

a. *If the participant has been determined guilty of **fraud** in connection with any Federal housing assistance program.*

b. *Tenants are always required to report changes in family composition and income changes, in writing, within 30 days of the date of change using the required MDOC forms ~~income-reporting receipt form~~ provided to all participants. The first time a participant family **fails to report** any **income increase**, they will generally not be terminated from assistance unless their failure to report results in an under reporting of ~~\$1,55,000~~ or more of income in total since their entry to the program. On a first time exception of unreported income less than ~~\$1,5005,000~~, the participant family may be allowed to enter into a repayment agreement (see Section II-M of this plan) without being terminated from the program. The second time a participant family fails to report an income or family composition change-increase, the participant family will be terminated from assistance and will not allowed back to the MDOC program.*

c. *If a participant **fails to respond as required in the local field agent notification to a request for a reexamination, in writing**. After the third attempt to contact without success, the local field agent will request that MDOC terminate assistance. Local field agents will take into account extraordinary circumstances before requesting termination.*

d. *If the participant **fails to appear for a scheduled appointment or inspection**, without canceling or rescheduling the appointment ~~in writing~~ prior to the date of the appointment, the local field agent will request that MDOC terminate assistance for violation of a family obligation. The local office will only be required to reschedule an appointment or inspection twice. Local Field agents will take into account extraordinary circumstances and document reasons before requesting termination.*

e. *As a violation of Family Obligation, where the tenant causes **damage beyond normal wear and tear** in a rental unit.*

1) *(Mod Rehab and Voucher units where the lease started prior to 10-2-95) If MDOC has approved a claim(s) on behalf of a participant after February 29, 2000, where the approved amount allowable on lines K (unpaid rent in excess of security deposit) and Q (unpaid tenant damages (includes unpaid utilities) in excess of security deposit) of the MDOC damage claim form exceeds \$1,000, MDOC will terminate assistance.*

2) *(Voucher units where lease started after 10-2-95). When a participant causes damages, where the costs of cleaning, repair, unpaid utilities, and unpaid rent, as proven by a court judgement after February 29, 2000, in favor of one or more of the landlord(s) with a cumulative judgement of total more than \$1,000 or greater, MDOC will terminate assistance.*

f. g. If the participant or any member of the participant's family **refuses to sign and submit consent forms** required by 24 CFR 5.232 (HUD form 9668), assistance for the family will be terminated. The participant is responsible for signing and submitting consent forms by all family members.

g. Will not provide Social Security numbers or documentation for Social Security numbers for all family members. (24 CFR 5.210)

h. Is enrolled as a student at an institution of higher education and according to section 327 (a) requirements is not eligible;

-Student is enrolled as a student at an institution of higher education; under 24 years of age; not a veteran; unmarried; does not have a dependent child; and is not individually eligible.

-does not meet the independence criteria as established in HUD guidance on parental income. (use MDOC procedures for Student Assistant)

i. MDOC will not deny or terminate assistance on the basis that a participant is or has been a victim of domestic violence, dating violence, or stalking if the participant otherwise qualifies for assistance. However, this does not limit MDOC's authority when there is actual or imminent threat to other tenants, employees, or others providing services to the property.

if. 24 CFR 982.403. Participant families will not be allowed to remain in **over crowded or under occupied units**, which result from family size changes and make their unit not meet subsidy standards. Voucher participants will be issued vouchers and be required to move to a unit which meets subsidy standards, even if they owe money on the program. After moving, if the family still owes money, they will be required to repay per the terms of their current repayment agreement. If they refuse to sign a repayment agreement, assistance will be terminated. If they do not repay in accordance with a repayment agreement, assistance may be terminated. Mod Rehab participants will be allowed to move to another correct sized Mod Rehab unit in the same community if one is available. If one is not available, the participant may be issued a Voucher, if one is available in the field agent area, using the Mod Rehab local preference, or may also be referred to other types of assistance. Assistance will be terminated for families refusing to move to an acceptable unit.

kg. _If tThe family breaches **the signed**, a repayment agreement by not making any payment in a continuous 90-day period, by _not initiating any contact with the local field agent concerning missed payments, _or refuses to sign a repayment agreement to pay amounts owed to any PHA, or amounts paid to an owner by MDOC.

hl. If the participant or any member of the participant's family **refuses to sign and submit consent forms** required by 24 CFR 5.232 (HUD form 9668), assistance for the family will be terminated. The participant is responsible for the signing and submitting of consent forms by all family members.

mi. ~~With regard to conviction on any drug-related or violent criminal activity, legal written documentation (copy of conviction) will be required before a termination request will be processed. has engaged in drug related or violent criminal activity within the last five years~~

n. participants appearing on the violent offenders and sexual offenders register

o. participants convicted of manufacturing or production of methamphetamine

p. If MDOC determines that there is reasonable cause to believe that the person **abuses alcohol** in a way that resulted in unfavorable conduct and/or interferes with the health, safety, or right of peaceful enjoyment of the premises by other residents. This may be waived in accordance with PIH 96-27 (HA).

qj. MDOC will terminate assistance for any person it determines to be **abusing alcohol** in a way that interferes with the health, safety, or right of peaceful enjoyment of the premises by other residents.

rk. If the participant or any family member engages in actual or threatened abusive or **violent behavior** toward and MDOC or local field agent personnel.

IN EACH OF THE CASES IDENTIFIED ABOVE, THE PARTICIPANT WILL BE NOTIFIED BY THE LOCAL FIELD AGENT, OF THEIR RIGHT TO AN INFORMAL HEARING, IN ACCORDANCE WITH THIS PLAN.

24 CFR 982.102(g) Termination of HAP contract and tenancy due to unavailability of funds from HUD. Should HUD funding for the programs be reduced to where removal of assistance for current participants is necessary, MDOC will reduce the number of participants on a prorated basis by canceling HAP contracts and assistance in the following order:

First: Participants who owe the MDOC money, and are late or deficient in making repayments

Then: : Participants who owe the MDOC money, and are making repayments

Then: Single member families who are not disabled or elderly receiving subsidy more than 5 years drawn by lot,

Then: Other participant families who are not disabled or elderly who have been participants more than 5 years, drawn by lot,

Then: remaining families drawn by lot, until the required number of subsidies are removed to allow the program to continue at the funding rate set by HUD.

HUD Intent with respect to damages or unclaimed income: *The following reflects HUD guidance from the final rule published 10/21/1999, changing 24 CFR 982.552. The wording is from the comments and response section, but is not included in the regulation itself. Comments from respondents to an earlier Interim Rule, were taken into consideration when HUD Adopted the final rule, with responses showing HUD intent in making the changes.*

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[DOCID:fr21oc99-19] [Docket No. FR-4428-F-04]RIN 2577-AB91

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
24 CFR Parts 888 and 982

Section 8 Tenant-Based Assistance; Statutory Merger of Section 8 Certificate and Voucher Programs; Housing Choice Voucher Program

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

EFFECTIVE DATE: November 22, 1999.

SUMMARY: This final rule adopts as final certain provisions of the interim rule published on May 14, 1999, to implement the statutory merger of the Section 8 tenant-based certificate and voucher programs into the new Housing Choice Voucher Program, and makes amendments to other provisions of this interim rule. This final rule takes into consideration the public comments received on the interim rule, and most of the amendments made at this final rule stage are in response to public comment.

...

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“Section 982.552 PHA denial or termination of assistance for family.

Comment: *Mandatory termination of assistance for a tenant-based program participant evicted for serious lease violations. ...*

HUD response. *HUD has determined that the mandatory nature of this provision is necessary in order to foster responsibility in the Section 8 program. Section 8 assistance is a scarce benefit. This provision indicates that HUD will not reward serious lease violations, such as behavior that threatens other residents or the safety or maintenance of the premises, by providing continued Section 8 assistance in a different unit. Furthermore, this policy will address the complaint that some assisted families have kept their Section 8 benefits even after they have caused extensive damage or incurred a large unpaid rent debt. Additional efforts to hold families accountable for actions by family members should increase owner participation and provide expanded housing opportunities for low income families in nontraditional neighborhoods. It is noted that termination of assistance is only required for an eviction resulting from a serious lease violation (not repeated lease violations). Therefore, the family will be protected by the due process they receive through the judicial eviction process and, additionally, the PHA must give the family the opportunity for an informal hearing before assistance termination.*

Comment: *Mandatory denial of admission if applicant is evicted from federally assisted housing for serious lease violations. ...*

HUD response. *Section 982.552.(b)(1) is reserved and a new paragraph (c)(1)(ii) is added to permit PHAs to deny admission or terminate assistance if any member of the family has been evicted from Federally assisted housing in the last five years. This is a change from the interim rule, which prohibited admissions of families evicted*

from Federally assisted housing for serious lease violations. HUD may review this matter again as it finalizes the pending ``One Strike'' regulation.

Comment: Termination of assistance if participant fails to meet welfare-to-work program obligations. ...

[page 59610]

HUD response. The rule is revised to add requirements to the PHA briefing of the family participating in the welfare-to-work voucher program, and to the material provided in the family's information packet (Sec. 982.301(a) and (b)). Specifically, the PHA must advise (both verbally and in writing) the family of the local welfare-to-work voucher program family obligations and that failure to meet these obligations is grounds for PHA denial of admission or termination of assistance.

HUD is not mandating federal standards for family obligations under the welfare-to-work voucher program, since there is local flexibility in designing such obligations. The option for PHA termination of assistance or denial of admission will permit PHAs to prevent program abuse by families that willfully and persistently violate work-related obligations under the welfare-to-work voucher program. Of course, the PHA must give the family the opportunity for an informal review or informal hearing before the PHA denies admission or terminates assistance.

Comment: HUD authority to regulate terminations of assistance. ...

HUD response. HUD has authority to define grounds for termination of assistance and has done so in a comprehensive manner since 1984."

II-S. INFORMAL HEARINGS.

24 CFR 982.555, or for denial on the basis of ineligible immigration status 24 CFR 812.9.

1. REQUEST FOR HEARING. The participant must request the hearing in writing within 20 days of the date of the written notice of the questioned decision. Informal hearings will be scheduled (this does not mean conducted) by MDOC within 30 days of receiving a written hearing request from the participant if the matter qualifies for an informal hearing. MDOC will notify the family in writing, of the scheduled hearing date. *This notice will contain a MDOC "Discover Request", and a "hearing packet" consisting of: copies of regulations cited in the decision, a copy of 24 CFR 982.555, relevant documents, and a copy of "MDOC procedures for Informal Hearings".*

If the matter does not qualify for an informal hearing, MDOC will send notice to the participant within 20 days of the receipt, with an explanation of the reasons for denial of the request for informal hearing.

2. DISCOVER. (documents includes written records and regulations).

a) - **by family.** MDOC must be given the opportunity to examine, at the MDOC office in Helena, any documents possessed by the family, that are directly relevant to the hearing. MDOC must be allowed to copy any such document at MDOC's expense. If the family does not make the document available for examination on MDOC's request, received by MDOC at least 10 days prior to the scheduled hearing date, the family may not rely on the document at the hearing.

b) - **by MDOC.** MDOC will make available copies of any documents pertinent to the hearing, upon written request by the participant. If MDOC does not make the document available for examination on the family's request, MDOC may not rely on the document at the hearing.

3. CONDUCT OF THE HEARING.

a. **Hearing Officer.** Informal hearings will be conducted by a hearing officer appointed by MDOC. The hearings officer will regulate the hearing, and ensure that all proceedings are tape recorded. MDOC will provide the hearing officer with copies of MDOC and participant discover records relating to the decision, as soon as possible after the hearing officer is named, to allow time for review by the hearing officer. The hearing officer will restrict the hearing to testimony and documents specifically related to the hearing cause.

b. **Participant Rights.** The participant may be represented by a lawyer at their own expense, and will be given the opportunity to present evidence and question any witnesses. MDOC will reimburse the requesting participant for only the participant's mileage or transportation expenses (at applicable state rates for state employees) to and from the hearing location. All other costs incurred by the participant requesting the hearing, such as lodging, meals, legal representation, are to be borne by the requesting participant.

c. **Evidence.** Evidence in the hearing will be allowed without regard to admissibility under the rules of evidence for judicial proceedings, except for information covered under the Discover Section.

d. **Order of events** of the hearing.

1) The hearing officer will call the hearing to order. At any time during the hearing, the hearing officer may interrupt testimony to ask pertinent questions, or clarify testimony.

2) All persons present will be identified, and the purpose for their presence verified.

3) Evidence will be presented in the following order:

A) MDOC staff will provide an overview of the reasons for the hearing, and copies of pertinent documents relating to the MDOC decision, as well as any other testimony MDOC wishes to introduce.

B) The participant will provide testimony and documentation for consideration at the hearing, and rebut MDOC testimony or documents.

C) MDOC may question the participant about testimony and documentation presented by the participant, and rebut participant testimony or documents.

D) The hearing officer may summarize his/her understanding of the position of both sides to insure that all information from the hearing is complete and clear.

E) When the hearing officer is satisfied that both sides have presented sufficient evidence to render a finding, the hearing officer will close the hearing.

4. HEARING DECISION. The hearing officer will issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the participant shall be based on preponderance of the evidence presented at the hearing. A copy of the decision will be promptly sent to the participant and MDOC.

a. **Preponderance of the evidence** *means a greater weight of evidence, or evidence which is more credible and convincing to the mind; that which best accords with reason and probability; it rests with that evidence which, when fairly considered, produces the stronger impression, and has the greater weight, and is more convincing as to its truth when weighed against the evidence in opposition.*

b. **Non-Binding Decisions.** MDOC is not bound by hearing decisions:

1) Concerning a decision that is not identified in the plan as eligible for an Informal Hearing, or otherwise in excess of the authority of the Hearing Officer under the hearing procedures.

2) Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State or Local law.

If MDOC determines that it is not bound by a hearing decision, MDOC will promptly notify the participant of the decision, and of the reasons for the determination.

II-T. RENT REASONABLENESS.

MDOC local field agents will determine if a unit is rent reasonable when compared with like units in the rental market area .

Each local field agency will conduct an annual survey of units in their area, and keep the survey on file for use during the next 12 month period. Surveys will include at least 3 units, if available in the local area, of similar type housing for each bedroom size and area as needed to properly determine rent reasonableness.

Rents of new units must be compared with three similar units included in the survey, if available for the local area, using the MDOC reasonableness form.

If the local field agent is unable to find a similar unit for comparability in the same local area, the field agent may give the landlord a copy of the survey form for the landlord to use to find a comparable unit.

The field agent will review the comparables found, and decide whether to allow them when making a reasonableness determination.

III. MDOC POLICIES FOR OWNERS.

A. PROVIDING TENANT INFORMATION TO OWNERS. MDOC will provide the following information about tenants to prospective landlords:

Current and prior address of family

Name, address, and phone number of all known landlords at the family's current and prior addresses

MDOC will requires all field agents give the same types of information to all owners.

B. TENANT SCREENING: Tenant screening is a landlord responsibility. *This was made clear when the lease was changed in 1995, as landlords wanted the program to operate more like regular tenancies.* MDOC does not screen for tenant suitability. MDOC recommends that all landlords check references.

C. RENT REASONABLENESS. MDOC local field agents will determine if a unit is rent reasonable when compared with like units in the rental market area . Each local field agent will conduct an annual survey of units in their area, and keep the survey on file for use during the next 12 month period. Rents of new units must be compared with three similar units included in the survey, when possible, given local conditions, using the MDOC reasonableness form. If the local field agent is unable to find a similar unit for comparability in the same local area, the field agent may give the landlord a copy of the survey form for the landlord to use to find a comparable unit. The field agent will review the comparables found, and decide whether to allow them when making a reasonableness determination. In small towns in the state, where it is not possible to find 3 comparables, the field agent will document this on the MDOC rent reasonableness form.

D. PUBLICITY AND ADVERTISING. MDOC will reach potential landlords through news releases when additional rental units are needed in a specific area. Contract Field Agents monitor availability of rental units to Section 8 families, and notify MDOC when additional units are needed.

E. INFORMATION AVAILABLE ON REQUEST. MDOC disseminates information on the program to current and potential landlords, on request, through Local Contract Field Agents, including: copies of Montana's Landlord Tenant Act, Section 8 leases, prohibited lease provisions, vacancy payment and damage repair claim procedures, Fair Market Rent (FMR) limits, security deposit limits, state law requirements about Condition of Premises statement, utility allowance schedules, Housing Quality Standards, Landlord portion of the MDOC Admin. Plan, and lead based paint abatement requirements.

For Mod Rehab, additional items are available: Statement of Family Responsibility, Information for Owners, Rent Calculation Formats, Agreement to Enter into Housing Assistance Payments Contract, and Housing Assistance Payments Contract.

F. BRIEFINGS. Contract Field Agents offer briefings to potential Landlords, to acquaint them with the Section 8 Program.

G. POLICY DOCUMENT: *A MDOC landlord policy document will be given to each landlord who rents units under the Section 8 Program by the MDOC Local field agent administering the program for MDOC. The policies will contain the following subjects:*

SUITABILITY AND SCREENING OF TENANT.

SECURITY DEPOSITS.

OWNER RESPONSIBILITIES

PAYMENTS TO LANDLORDS.
RENT ADJUSTMENTS.
CORRECTING HQS DEFICIENCIES.
MUTUAL LEASE RECISION.
TERMINATIONS AND EVICTIONS.
COLLECTION OF AMOUNTS OWED MDOC BY LANDLORDS.
DAMAGE REPAIR CLAIM DEPRECIATION SCHEDULE.

Local Field agents will provide the following MDOC printed documents to all landlords new to Section 8 before a lease is executed to give the landlord adequate information to decide whether to enter a Section 8 lease:

*Part B of the HAP contract
Section 8 Program Information form (describes programs and applicants)
Landlord and Tenant Act (green)
Voucher, Lease, and Housing Contract information sheet (green)
MDOC Policy Document for Landlords (green)*

IV. MDOC F.S.S. ACTION PLAN

(24 CFR 984)

Contents:

- A. Overview
- B. Family Demographics and Estimate of Participating Families
- C. Eligible Families from Other Self-Sufficiency Programs
- J. FSS Family Selection Procedures
- K. Incentives to Encourage Participation
- L. Outreach Efforts
- M. FSS Activities and Support Services
- N. Method for Identification of Family Support Needs
- O. Program Termination; Withholding of Services; and Available Grievance Procedures
- J. Assurances of Non-Interference with Rights of Non-Participating Families
- K. Timetable for Program Implementation
- ~~T.P.~~ Certification of Coordination
- ~~U.Q.~~ Contract of Participation
- ~~V.R.~~ Escrow Accounts
- ~~W.S.~~ Individual Training and Services Plans
- P. Informal Hearings and Reviews
- Q. Local Coordinating Committees
- R. Local Contractor Certifications
- S. Local Contractor Annual Performance Reports

A. OVERVIEW: *MDOC has operated a Family Self-Sufficiency Program in Montana since 1992, on a decentralized basis, through local contractors acting as MDOC field agents for the Housing Choice Voucher Program. In 1992, the MDOC field agencies specified all elements associated with FSS Action Plans for their individual locations. Programs were designed to serve local needs in Montana, using local resources necessary to insure success for FSS participants. Services are location specific, so local MDOC field agents are allowed maximum freedom in operating the program in their jurisdictional areas.*

B. FAMILY DEMOGRAPHICS AND ESTIMATE OF PARTICIPATING FAMILIES:

Since FSS is a statewide program, the demographics of families to be participating in the FSS program are extremely varied. Based on the current number of Section 8 participants in service areas of the MDOC field agencies involved in FSS, the FSS program is of minimal size, compared to overall state need. The demographics of program participants will follow those of the general overall state population, as well as the local county low-income population of each service area.

The MDOC field agents administering the FSS program are required to provide an updated list annually of the supportive services they provide FSS participants. This listing is included in the agencies annual report to MDOC due August 15th each year. These services will be used to assist the following FSS units allocated by MDOC to help families throughout Montana.

<u>Local Field Agency</u>	<u>Minimum Units</u>	<u>Maximum Units</u>
Action for Eastern Montana	9	15
District IV HRDC	11	17
Opportunities, Inc.	12	20
District VI HRDC	4	6
District VII HRDC	6	10
District IX HRDC	12	19
Northwest Montana Human Resources	5	8
Human Resource Council of Butte	12	20
Housing Authority of Billings	18	30
Helena Housing Authority	<u>4</u>	<u>6</u>
TOTAL FSS PROGRAM SIZE	<u>93</u>	<u>151</u>

C. ELIGIBLE FAMILIES FROM OTHER SELF-SUFFICIENCY PROGRAMS:

Not

applicable. MDOC has no public housing units.

D. FSS FAMILY SELECTION PROCEDURES:

The following are not eligible to participate in the MDOC FSS program:

- 1) Families who were prior FSS program participants and were terminated from the FSS program for non-compliance with the FSS contract of participation;
- 2) Families who were prior FSS program participants and were terminated from the Section 8 rental assistance program for non-compliance with the Section 8 program rules and policies or for violating any family obligations under the program.
- 3) Families who were prior FSS program participants that withdrew from the FSS program
- 4) Families who were prior FSS program participants that graduated from the FSS Program, or
- 5) Families who owe any PHA money in connection with Section 8 or public housing assistance.

Families will be selected for participation by the MDOC field agents in the following priority order, based on local needs and services to be provided:

- 1) Participating families from the voucher program who are enrolled in local JOBS, JTPA, Employed Parent, Displaced Homemaker, or similar programs in which the MDOC field agent is actively involved, for a maximum of 50% of the program slots, then
- 2) Other MDOC Section 8 program participant families showing interest in FSS from the field agent service area on a first-come, first-served basis.

E. INCENTIVES TO ENCOURAGE PARTICIPATION: MDOC offers the following incentives to encourage participation in the FSS program.

- 1) Detailed information on agent supplied education, employment and training, and home ownership programs.
- 2) Referral to support services like child-care, transportation and work/education related costs while enrolled in this program.
- 3) An escrow account (like a savings account) for the duration of the program. The FSS escrow account funds are available when self-sufficiency is achieved.
- 4) Detailed information about education and employment programs in Montana with easier and smoother access.

F. OUTREACH EFFORTS: Each MDOC field agency will schedule periodic public FSS orientation meetings for prospective participants and service providers. The purpose of the meetings will be to explain the FSS program and how it operates, responsibilities of the participants, and provide other information concerning the FSS program, as well as to collect the names of participating Section 8 families interested in participating in the FSS program.

The MDOC field agents will mail meeting invitations to voucher participants from their jurisdictional service area.

A list will be maintained at each field agent location naming voucher participant families interested in becoming FSS participants. Those not responding to the meeting invitation will be considered to have been contacted, and are not interested in the FSS program.

As participating Section 8 families enter local JOBS, Unemployed Parent, Displaced Homemaker, or similar programs in which the MDOC field agency is actively involved, they will be advised about the FSS program, and the field agent will add them to the list, if the family is interested.

The MDOC Family Self-Sufficiency information sheet will be presented to all minority and non-minority participants by local field agents at all reexaminations (if vacancies exist and services are available) to further encourage participation in the FSS program.

G. FSS ACTIVITIES AND SUPPORT SERVICES: Complete lists of anticipated services and service providers were included in the 1992 MDOC FSS application. Actual services provided may not be similar to the initial needs in 1992, depending on local conditions and participant needs at the time the FSS Contract of Participation is signed. The MDOC field agencies administering the FSS program are required to provide an updated list annually of the supportive services they provide FSS participants. This listing is included in the agencies annual report to MDOC due August 15th each year. These services will be used to assist the FSS units allocated by MDOC to help families throughout Montana.

H. METHOD FOR IDENTIFICATION OF FAMILY SUPPORT NEEDS: Needs for services vary by locality and participant. Supportive services provided throughout the state will not be similar, due to limited availability to provide various types of supportive services at individual locations. Since individual needs of participating FSS families are of primary importance to success of the families (and the program), individual FSS programs will be developed for each participating family by the MDOC local field agency. The services provided each family will be based on individual family needs, and the local availability of support resources for the area where each unit is administered.

I. PROGRAM TERMINATION; WITHHOLDING OF SERVICES; AND AVAILABLE GRIEVANCE PROCEDURES: The termination of families participating in the FSS program will be governed by the provisions of the MDOC Administrative Plan and the FSS Contract of Participation.

A family enrolled in the FSS program may be terminated from the FSS Contract of Participation if they fail to satisfactorily perform the requirements under their individual FSS contract.

MDOC will consider reasons for the family not being able to fulfill their obligations under the FSS contract, prior to determining whether to terminate the FSS contract.

A family terminated from participation in the FSS program may request an informal hearing within 20 days of being notified by MDOC of their termination. If the family voluntarily terminates their participation in the FSS program, they may not request a hearing for termination of the Contract of Participation, or for the right to access any funds in their escrow account.

J. ASSURANCES OF NON-INTERFERENCE WITH RIGHTS OF NON-PARTICIPATING FAMILIES. A family's election to not participate in the MDOC FSS program will not affect the family's admission to the Sec. 8 housing programs or the family's right to occupancy in accordance with its lease.

K. TIMETABLE FOR PROGRAM IMPLEMENTATION. The MDOC FSS program was implemented in 1992, and has been in operation since that time. The MDOC program is now in voluntary status since over 47 successful participant families have graduated since 10/1/1998.

L. CERTIFICATION OF COORDINATION. The MDOC certifies that development of the services and activities under the FSS program has been coordinated with the JOBS Program, the programs provided under the JTPA, and any other relevant employment, child care, transportation, training, and education programs (e.g. Job Training for the Homeless Demonstration Program) by the MDOC field agency in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities.

M. CONTRACT OF PARTICIPATION: *The FSS Contract of Participation is a five-year contract between the FSS participant family and MDOC.*

A contract of participation must include the individual training and services plan. The effective date of a contract of participation is the first day of the month following the date the contract of participation is signed by the family and MDOC. The contract of participation may be extended up to two years if the family gives MDOC a written request for an extension and MDOC finds that good cause exists for the extension. (Good cause : circumstances beyond the control of the FSS family such as serious illness, involuntary loss of employment.) The family's extension request must include a description of the need for the extension. Termination of employment for nonperformance by the FSS head is not justification for a contract of participation extension. MDOC may extend the contract of participation to allow the FSS family to meet the interim goal of being welfare-free at least 12 consecutive months prior to the expiration of the contract. If an extension to the contract of participation is granted, the original expiration date listed on page one of the contract must be crossed out and the new expiration date added.

Changes to a contract of participation can only be made to modify the contract term, change the head of the family or modify the individual training and services plan. Any change of the head of the family must be included as an attachment to the contract and must contain the following: name of new designated

FSS head, signatures of the new head (and removed FSS head, if available), MDOC representative, and the date signed. Changes to individual training and services plans must include the item changed, signatures of the participant and MDOC, and date signed.

N. ESCROW ACCOUNTS:

1) GENERAL: *The MDOC field agent will provide MDOC a copy of the FSS escrow account worksheet for each FSS family at each income re-examination, to allow MDOC to credit proper amounts to the family's escrow account.*

MDOC will invest FSS escrow accounts in the State Treasurer's Short-Term Investment Pool (STIP) to guarantee participating families the benefit of higher interest rates generated due to the amount of investments available in the STIP pool.

Interest will be credited to escrow accounts on a quarterly basis, calculated on a percentage of ownership basis for all families in the Pool.

The amount in a family's FSS escrow account will be forfeited by the family if the participating family has failed to meet its obligations under the Contract of Participation (including failure to meet its obligations because the family moves outside the jurisdiction under portability provisions of the Section 8 program).

Federal or state welfare assistance includes (for the FSS program only) cash maintenance payments designed to meet a family's ongoing basic needs, such as cash assistance under FAIM (Families Achieving Independence in Montana), general assistance, or other assistance provided under a Federal or state program for general living expenses.

Payments will be made by MDOC on a monthly basis, between the 1st and 15th of each month. Any request for payment of escrow received before the end of the month will be processed at the beginning of the next month, if at all possible. All requests for payment of the escrow account must include the correct documentation. This must include the MDOC Request for Withdrawal of Escrow Account Funds form in triplicate, filled out and signed by all parties, as well as a letter from the MDOC field agent approving the disbursement of the escrow funds to the FSS participant family. Final determination for escrow payments will be the responsibility of the MDOC.

2) FINAL DISBURSEMENTS *The amount in an FSS escrow account, in excess of any amount owed to any PHA by the FSS family, will be paid to the head of the FSS family if the family has fulfilled all of its obligations under the contract of participation on or before the expiration of the contract term, including any extensions, and if, at the time of contract completion, the head of the FSS family submits to MDOC a certification that to the best of his or her knowledge and belief, no member of the FSS family is currently or has been a recipient of welfare assistance during the last 12 months prior to expiration of the contract.*

Before making the final escrow disbursement, MDOC may verify that the family is no longer receiving welfare assistance by requesting copies of documents, contacting the welfare agency or MDOC field agent, or by other legally acceptable means.

The family may use the final disbursement of escrow account funds without restriction.

An FSS family may use its FSS final escrow disbursement for the purchase of a home, including a home under one of HUD's homeownership programs, or under other Federal, State, or local homeownership programs.

The MDOC cannot restrict a family's use of FSS escrow account funds withdrawn by the family unless the funds are withdrawn to aid in the completion of an interim goal.

3) INTERIM DISBURSEMENTS: If a family receives an interim disbursement from their escrow account prior to completing the contract, the interim disbursement does not have to be repaid to the MDOC if the family drops out of the FSS program, unless the payment was based on fraud, or misinformation by the family.

The MDOC may, at its sole option, make an interim disbursement of a portion of the funds from the family's escrow account during the contract period for contract-related expenses if the family has successfully progressed in meeting interim contract goals, and needs a portion of the FSS account funds for purposes consistent with the contract, such as:

- 1) School tuition or other school costs
- 2) Job training expenses
- 3) Business start-up expenses
- 4) A car, when public transportation is unavailable or inaccessible to the family, or for major car repairs, the later which will be determined on a case by case basis
- 5) Emergency medical expenses.

O. INDIVIDUAL TRAINING AND SERVICES PLANS: All individual training and services plans must be reviewed and updated at least annually for all adult family members. The plans must include both interim and final goals. All goals (both interim and final) must include specific activities under each goal, timeframes, and the party responsible for each goal identified, to provide a clear understanding of the participant's goals and objectives. Plans must be written with enough detail to allow evaluation of performance by MDOC. All plans must include the mandatory interim and final goals. If receiving welfare assistance, plans must include the mandatory interim goal of all family members becoming independent from all forms of state and federal welfare assistance for at least one year prior to the expiration of the FSS Contract of Participation. All final goals must include obtaining and maintaining ~~suitable~~ employment. ~~A participant has been maintaining employment if they have been employed for at least the 12-month period immediately preceding the expiration date of the contract including any extensions.~~

P. INFORMAL HEARINGS: Informal Hearings will be conducted in accordance with the MDOC Admin Plan.

Q. LOCAL COORDINATING COMMITTEES: The local MDOC field agent will maintain and provide the following documentation to MDOC:

- 1) A roster of names and titles or positions of all committee members, with their individual signatures specifying that they are willing to provide services as necessary to insure success of the local program.
- 2) Copies of meeting minutes where the FSS program startup and initial direction is established.
- 3) Copies of meeting minutes for all meetings of the Local Committees.

R. LOCAL CONTRACTOR CERTIFICATIONS: Each local contractor (MDOC field agent) will provide MDOC with the following certifications, prior to initiating a local FSS program:

- 1) That the development of services and activities have been coordinated with the JOBS program, JTPA, and other relevant programs;
- 2) That development of services and activities has been coordinated with relevant child care, transportation, training and education programs.
- 3) That implementation will continue to be coordinated in order to avoid duplication of services and activities.

S. LOCAL CONTRACTOR ANNUAL PERFORMANCE REPORT: *Each local contractor (MDOC field agency) will submit an annual performance report to MDOC (based on a program year of July 1 to June 30), by August 15 each year, which contains:*

- 1) A description of activities carried out under the program;*
- 2) A description of the effectiveness of the program in helping families to achieve independence and self sufficiency;*
- 3) A description of the effectiveness of coordinating community resources;*
- 4) Recommendations for legislative and administrative improvements which would improve effectiveness of the program;*
- 5) A breakdown of racial and ethnic data with respect to families who:*
 - a) Declined to participate;*
 - b) Elected to participate, but did not execute a contract;*
 - c) Executed an FSS contract, signed a lease, and voluntarily left the FSS program;*
 - d) Executed an FSS contract, signed a lease, and completed the FSS program; and*
 - e) Executed an FSS contract, signed a lease, and remained in the FSS program. Data should include where families offered an opportunity to participate were found.*

Administrative fees for the FSS portion of the Voucher program will be forfeited by each agency who has not submitted an Annual Performance Report to MDOC by the due date of Aug. 15, for the period after Aug. 15 until the report is received. MDOC field agencies may have their FSS portion of the agency contract terminated for failure to maintain the minimum number of units under contract, or for not complying with the reporting requirements of this section after 2 notices by MDOC.